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## GOVERNMENT OF INDIA.

## LEGISLATIVE DEPARTMENT.

[First Publication.]

The following Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 26th January, 1882 :—

We, the undersigned Members of the Select Committee to which the

- Office memorandum from Department of Finance and Commerce, No. 744, dated 23rd February, 1881, and enclosures [Papers No. 1].  
 From Her Majesty's Secretary of State for India, No. 64 S. & C., dated 31st March, 1881, and enclosures [Papers No. 2].  
 " Secretary to Government, Bombay, No. 943, dated 23rd December, 1879, and enclosures [Papers No. 3].  
 To Secretary to Government, Bombay, No. 412, dated 5th April, 1881 [Papers No. 3].  
 From Secretary to Government, Bombay, No. 310, dated 1st June, 1881, and enclosures [Papers No. 3].  
 " Secretary to Government, Bengal, No. 429T., dated 9th June, 1881, and enclosures [Papers No. 4].  
 " Officiating Chief Secretary to Government, Madras, No. 1117, dated 6th June, 1881, and enclosures [Papers No. 5].  
 " Secretary to Government, Bombay, No. 343, dated 15th June, 1881 [Paper No. 6].  
 Office memorandum from Department of Finance and Commerce, No. 1589, dated 5th July, 1881, and enclosures [Papers No. 7].  
 From Secretary to Government, Bombay, to Secretary to Government of India, Department of Finance and Commerce, No. 122, dated 5th March, 1881.  
 " Officiating Secretary to Government of India, Department of Finance and Commerce, to Secretary to Government, Bombay, No. 1668, dated 15th July, 1881, and enclosures.  
 To Her Majesty's Secretary of State, No. 51 S. & C., dated 15th July, 1881.  
 From Chief Secretary to Government, Madras, No. 1272, dated 29th June, 1881, and enclosure [Papers No. 8].  
 " Secretary to Government, Bengal, to Secretary to Government of India, Department of Finance and Commerce, No. 144, dated 25th January, 1881, and enclosures [Papers No. 9].  
 " Secretary to Government of India, Department of Finance and Commerce, to Secretary to Government, Bengal, No. 798, dated 28th February, 1881 [Papers No. 9].  
 Office memorandum from Department of Finance and Commerce, No. 1562, dated 9th July, 1881, and enclosures [Papers No. 9].  
 From Secretary to Government, Bombay, to Secretary to Government of India, Marine Department, No. 331, dated 8th June, 1881, and enclosures.  
 " Secretary to Government of India, Department of Finance and Commerce, to Secretary to Government, Bombay, No. 2559, dated 27th August, 1881.  
 " Her Majesty's Secretary of State for India, No. 124 S. & C., dated 11th August, 1881, and enclosures.  
 Office memorandum to Department of Finance and Commerce, No. 786, dated 14th September, 1881.  
 Resolution of the Department of Finance and Commerce, No. 2969, dated 12th September, 1881.  
 From Officiating Secretary to Chief Commissioner, British Burma, No. 6138-4 P., dated 5th September, 1881, and enclosures [Papers No. 10].  
 " Her Majesty's Secretary of State for India, No. 129 S. & C., dated 18th August, 1881 [Papers No. 11].  
 " Her Majesty's Secretary of State for India, No. 114, dated 28th July, 1881, and enclosures [Papers No. 12].  
 " Her Majesty's Secretary of State for India, No. 39, dated 6th October, 1881.  
 " Ditto ditto ditto No. 168 S. & C., dated 20th October, 1881, and enclosures.  
 " Secretary to Government, Bengal, to Secretary to Government of India, Department of Finance and Commerce, No. 909 T., dated 2nd August, 1881.  
 " Secretary to Government of India, Department of Finance and Commerce, to Secretary to Government, Bengal, No. 1794, dated 9th December, 1881.

as introduced (now section 140), given to the Court making an investigation whether they are certificated or not. We have also provided that in every case in which any charge of incompetency, misconduct, wrongful act or default arises, the Court shall, before the commencement of the enquiry, furnish the Master, Mate or Engineer concerned with a copy of the report or statement of the case upon which the investigation has been directed.

5. We have amended the fourth paragraph of section 12 (now section 143) in the manner recommended by the Board of Trade, and required the Court in cases involving any question as

Bill for the further amendment of the law relating to Merchant Shipping was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

2. To meet a doubt that has arisen we have provided, in section 5 of the Bill as introduced (now section 4), that nothing in the Bill shall apply to any ship belonging to or in the service of the Government of India.

3. We have made the provisions of clauses (a) and (c) of section 6 of the Bill as introduced (now section 137) apply only to cases where material damage has been caused. We have also, at the suggestion of the Board of Trade, limited the application of clauses (d) and (e) of the same section to British ships.

4. At the suggestion of the same Board we have, in section 9 of the Bill

to the cancellation or suspension of the certificate of a Master, Mate or Engineer to constitute as its assessors two persons having experience in the merchant service. This amendment will bring the section into harmony with Imperial legislation, and in cases where it is not practicable to procure on the spot the attendance of two assessors so qualified, the Local Government will no doubt be able to send a duly qualified assessor from some other place.

6. In section 16 of the Bill as introduced (now section 147) we have provided that the certificate granted in lieu of a cancelled or suspended certificate shall be of a grade lower than the one cancelled or suspended. We have also, in accordance with the opinion expressed by the Local Governments, empowered them to grant under that section certificates without being advised by the Court to do so.

7. At the suggestion of the Board of Trade, we have, in section 17 of the Bill as introduced (now section 14), made it clear that the Local Government cannot suspend or cancel, in the cases mentioned in that section, certificates granted under the Merchant Shipping (Colonial) Act, 1869. It is, however, unnecessary to limit the words "any Local Government" in that section by adding the words "in British India," as recommended by the Board. The expression "Local Government" is defined in the General Clauses Act, 1868, to mean the person authorized by law to administer Executive Government in the part of British India in which the Act containing such expression shall operate.

8. At the request of the Bengal Government, we have called the officer who may be appointed under section 28 of the Bill as introduced (now section 153) the Health-officer, and have given him the powers conferred on a Shipping-master by the Merchant Shipping Act, I of 1859. We have also modified clause (b) of that section so as to confine the power to medically examine persons on board to the medical examination of seamen or apprentices.

9. The provisions of section 18B in section 28 of the Bill as introduced have been generally objected to on the ground that they permit unnecessary interference between Masters and Seamen, and we have accordingly omitted them.

10. The Bill as introduced repealed and re-enacted the Merchant Shipping Acts of 1875 and 1878. In compliance with the wishes of many persons concerned with merchant shipping, we have carried the process of consolidation somewhat further, and now propose to repeal and re-enact the unrepealed portions of the following enactments:—

Act I of 1859.  
IV of 1875.  
XIII of 1876.  
XIII of 1878.  
VII of 1880, Chapter III.

We have taken the opportunity to make a few amendments in the law so dealt with. Thus in section 13, corresponding with Act I of 1859, section 10, we have given the Local Governments power, with the previous sanction of the Government of India, to fix the fees payable by candidates for examination for certificates as masters or mates.

11. In section 14, corresponding with section 11 of the same Act, we have given Local Governments the power, conferred on the Board of Trade by section 134 of the Merchant Shipping Act, 1854, of requiring the further examination of persons reported by the examiners to be qualified for certificates.

12. The punishment which can be awarded under section 79 of the same Act is imprisonment for two years. We have made it (section 106) fine which may extend to Rs. 1,000, or imprisonment which may extend to two years, or both.

13. The publication ordered by the Council has been made. We think that the Bill has been so altered as to require republication, and we recommend that its passing be deferred till the mercantile community and the Board of Trade have had an opportunity of expressing their opinions on the measure.

WHITLEY STOKES.  
RIVERS THOMPSON.  
J. GIBBS.  
H. J. REYNOLDS.

The 25th January, 1882.

## No. II.

### THE INDIAN MERCHANT SHIPPING BILL, 1882.

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## THE FIRST SCHEDULE.—ENACTMENTS REPEALED.

## THE SECOND SCHEDULE.—FEES AND DEDUCTIONS FROM WAGES.

## No. II.

*A Bill for the further amendment of the law relating to Merchant Shipping.*

WHEREAS by section 286 of an Act of the Imperial Parliament called "The Merchant Shipping Act, 1854," it is enacted that, if the Governor General of India in Council, or the respective Legislative Authorities in any British possession abroad, by any Acts, Ordinances or other appropriate legal means, apply or adapt any of the provisions in the Third Part of this Act contained to any British ships registered at, trading with or being at any place within their respective jurisdictions, and to the owners, masters, mates and crews thereof, such provisions, when so applied and adapted as afore-

Act I o  
Preamble



said, and as long as they remain in force, shall in respect of the ships and persons to which the same are applied be enforced, and penalties and punishments for the breach thereof shall be recovered and inflicted throughout Her Majesty's dominions; in the same manner as if such provisions had been hereby so adapted and applied, and such penalties and punishments had been hereby expressly imposed; and whereas it is expedient to apply to ships registered at, trading with or being at any port or place in British India, certain provisions of the Third Part of the said Act with such adaptations and modifications as are required;

and whereas it is also expedient to amend the law relating to investigations into casualties affecting ships and charges against masters, mates and engineers;

and whereas it is also expedient to provide, in other respects hereinafter appearing, for the regulation and control of merchant shipping;

It is hereby enacted as follows:—

## CHAPTER I.

### PRELIMINARY.

Short title.

1. This Act may be called  
"The Indian Merchant Ship-  
ping Act, 1882;"

Extent.

It extends to the whole of  
British India;

Commencement.

and it shall come into  
force on the first day of July,  
1882.

2. On and from that day the enactments specified in the first schedule hereto annexed shall be repealed to the extent mentioned therein.

But all offices constituted, fees fixed, directions given, persons nominated, rules made, forms sanctioned, scales fixed, proceedings commenced, officers appointed, powers conferred, investigations held, certificates cancelled or suspended, agreements made, persons authorized and other things duly done under any of the said Acts shall, so far as may be practicable, be deemed to have been respectively constituted, fixed, given, nominated, made, sanctioned, fixed, commenced, appointed, conferred, held, cancelled or suspended, made, authorized and done hereunder.

Interpretation-clause.

3. In this Act—

"ship" includes every description of vessel used in navigation not propelled by oars; and

"home-trade ship" includes every ship employed in trading between any ports of British India, or between any port of British India and any port or place on the continent of British India or in the island of Ceylon;

"foreign-going ship" includes every ship employed in trading between any port of British India and any port or place not in British India nor on the continent of British India nor in the island of Ceylon;

"master" means any person (except a pilot or harbour-master) having for the time being control or charge of a ship;

"seaman" includes every person (except masters, pilots and apprentices) employed or engaged in any capacity on board any ship.

4. Nothing in this Act shall be deemed to apply to any ship belonging to, or in the service of, Her Majesty or of the Government of India or belonging to any foreign Prince or State, and nothing in Chapters II to XII (both inclusive) shall, except as provided in sections thirty-eight, thirty-nine, forty, ninety-five and one hundred, be deemed to apply to any ship belonging to a subject of any foreign Prince or State.

## CHAPTER II.

### SHIPPING OFFICES.

5. A shipping office shall be established at each of the ports of Calcutta, Madras and Bombay, and at such other ports as the Governor General in Council hereafter deems necessary. For every such office there shall be a superintendent, to be called a "Shipping Master," with such necessary deputies, clerks and servants, at such salaries and subject to such regulations, as the Local Government may from time to time, with the previous sanction of the Governor General in Council, direct and appoint. Every act done by or before any deputy duly appointed shall have the same effect as if done by or before a shipping master.

6. The Local Government may appoint and remove such shipping masters and deputies, who shall respectively be subject to the control of that Government or of any intermediate authority which it may appoint.

7. It shall be the general business of shipping masters appointed under this Act to superintend and facilitate the engagement and discharge of seamen in manner hereinafter mentioned, to provide means for securing the presence on board at the proper times of men who are so engaged, and to perform such other duties relating to seamen and ships as are hereby or under the said Merchant Shipping Act, 1854, or as may hereafter under the powers herein contained be, committed to them.

It shall also be the duty of shipping masters to give to all persons desirous of apprenticing boys to the sea-service, and duly authorized so to do by Act No. XIX of 1850 (concerning the binding of Apprentices), and also to masters and owners of ships requiring apprentices, such assistance as may be, in their power for facilitating the making of such apprenticeships.

8. Such fees, not exceeding the sums specified in the table marked (A) in the second schedule hereto annexed, as are from time to time fixed by the Local Government, shall be payable upon all engagements and discharges effected before shipping masters as hereinafter mentioned.

Scales of the fees payable for the time being shall be conspicuously placed in the shipping offices; and all shipping masters, their deputies, clerks and servants may refuse to proceed with any engagement unless the fees payable thereon are first paid.

9. Every owner or master of a ship engaging or discharging any seaman in a shipping office or before a shipping master shall pay to the shipping master the whole of the fees here-

by made payable in respect of such engagement or discharge, and may, for the purpose of in part reimbursing himself, deduct, in respect of each such engagement or discharge from the wages of all persons (except apprentices) so engaged or discharged, and retain, any sums not exceeding the sums specified in that behalf in the table marked (B) in the second schedule hereto annexed.

Provided that, if in any cases the sums which the owner is so entitled to deduct exceed the amount of the fee payable by him, such excess shall be paid by him to the shipping master in addition to such fee.

Act I of 1859,  
a. 7.

**10.** Any shipping master, deputy shipping master, or any clerk or servant in any shipping office, who demands or receives any remuneration whatever, either directly or indirectly, for hiring or supplying any seaman for any ship, excepting the lawful fees payable under this Act, shall for every such offence be punished with fine which may extend to two hundred rupees, and shall also be dismissed from his office.

Act I of 1859,  
a. 8.

**11.** The Local Government may direct that, at any place at which no separate shipping office is established, the whole or any part of the business of the shipping office shall be conducted at the custom-house, or at the office of the master-attendant or harbour-master, or at such other office as the Government directs, and thereupon the same shall be there conducted accordingly; and in respect of such business such custom-house or office as aforesaid shall for all purposes be deemed to be a shipping office, and the officer of customs or other officer there, to whom such business is committed, shall for all purposes be deemed to be a shipping master within the meaning of this Act.

### CHAPTER III.

#### EXAMINATIONS AND CERTIFICATES OF MASTERS AND MATES.

Act I of 1859,  
a. 9.

**12.** Examinations shall be instituted for persons who intend to become masters or mates of foreign-going ships or of home-trade ships of a burden exceeding three hundred tons, or who wish to procure certificates of competency herein-after mentioned.

Act I of 1859,  
a. 10.

**13.** The Local Government, or any board or officer duly authorized by the Local Government in that behalf, shall from time to time nominate two or more competent persons for the purpose of examining the qualifications of the applicants for examination. The Local Government may, with the previous sanction of the Governor General in Council, make rules for the conduct of such examinations and as to the qualifications to be required; and such rules shall be strictly adhered to by all examiners.

Fees at such rates as the Local Government may from time to time, with the previous sanction of the Governor General in Council, fix in this behalf, shall be paid by all applicants for examination.

Act I of 1859,  
a. 11.

**14.** The Local Government, or such board or officer as aforesaid, shall deliver to every applicant who

is reported by the examiners to have passed the examination satisfactorily, and to have given satisfactory evidence of his sobriety, experience, ability and general good conduct on boardship, a certificate (hereinafter called a "certificate of competency") to the effect that he is competent to act as master or mate of a foreign-going ship or of a home-trade ship of a burden exceeding three hundred tons, as the case may be:

Provided that the Local Government may, in any case in which it has reason to believe that such report has been unduly made, require, before granting a certificate, a re-examination of the applicant or a further inquiry into his testimonials and character.

**15.** Certificates of service differing in form from certificates of competency shall be granted as follows; (that is to say):—

(a) Every person who before this Act comes into force has served as master in the British merchant service or as master of any foreign-going ship registered under Act No. X of 1841, or who has attained or shall attain the rank of lieutenant, master, passed mate or second mate, or any higher rank, in the service of Her Majesty, shall be entitled to a certificate of service as master for foreign-going ships.

(b) Every person who before this Act comes into force has served as mate in the British merchant service or as mate of any such ship as aforesaid shall be entitled to a certificate of service as mate for foreign-going ships.

(c) Every person who before this Act comes into force has served as master or mate of a home-trade ship of a burden exceeding three hundred tons shall be entitled to a certificate of service as master or mate (according to such previous service) for such home-trade ships.

And each of such certificates of service shall contain particulars of the name and of the length and nature of the previous service of the person to whom it is delivered; and the Local Government or such other authority as aforesaid shall deliver such certificates of service to the various persons so respectively entitled thereto upon their proving themselves to have attained such rank or to have served as aforesaid, and upon their giving a full and satisfactory account of the particulars aforesaid.

**16.** No foreign-going ship or home-trade ship of a burden exceeding three hundred tons shall go to sea from any port in British India unless the master and one officer besides the master have

obtained and possess valid and appropriate certificates either of competency or service under this Act or under the Merchant Shipping Act, 1854; and whoever, having been engaged to serve as master or mate, goes to sea as aforesaid as such master or mate without being at the time entitled to and possessed of such a certificate as hereinbefore required, and whoever employs any person as such master or mate without ascertaining that he is at the time entitled to and possessed of such certificate, shall for each such offence be punished with fine which may extend to five hundred rupees.

**17.** Every certificate of competency for a foreign-going ship shall be deemed to be of a higher grade than the corresponding certificate for a home-trade ship, and

Certificates for foreign-going ships available for home-trade ships.

shall be deemed to be of a higher grade than the corresponding certificate for a home-trade ship, and



shall entitle the lawful holder thereof to go to sea in the corresponding grade in such last-mentioned ship; but no certificate for a home-trade ship shall entitle the holder to go to sea as master or mate of a foreign-going ship.

Act I of 1859,  
s. 16.

18. All certificates, whether of competency or service, shall be made in duplicate; and one part shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded as the Local Government shall direct. A note of all orders made for cancelling, suspending, altering or otherwise affecting any certificate in pursuance of the powers herein contained shall be entered in the record of certificates.

Act I of 1859,  
s. 16.

19. Whenever any master or mate proves to the satisfaction of the Local Government or such other authority as aforesaid that he has, without fault on his part, lost or been deprived of any certificate already granted to him, a copy of the certificate to which by the record so kept as aforesaid he appears to be entitled shall be delivered to him, and shall have all the effect of the original.

Act IV of  
1875, s. 29.

20. Sections twelve to nineteen (both inclusive) shall not apply to ships registered under Act No. X of 1841 and trading between ports in British India and the coasts of Arabia, when such ships are navigated and manned exclusively by Arabs, lascars or other Asiatic masters and seamen.

#### CHAPTER IV.

##### ENGAGEMENT OF SEAMEN.

Act I of 1859,  
s. 18.

21. The Local Government, or any board or officer duly authorized by the Local Government in that behalf, may grant to such persons as may be deemed fit licenses to engage or supply seamen for ships, to continue for such periods, to be upon such terms and to be revocable upon such conditions as the Local Government thinks fit.

Act I of 1859,  
s. 19.

22. The following offences shall be punishable as hereinafter mentioned; (that is to say)—

(a) If any person not licensed as aforesaid, other than the owner or master or mate of the ship, or some person who is *bona fide* the servant and in the constant employ of the owner, or a shipping master duly appointed as aforesaid, engages or supplies any seaman to be entered on board any ship, he shall for each seaman so engaged or supplied be punished with fine which may extend to one hundred rupees.

(b) If any person employs any unlicensed person, other than persons so excepted as aforesaid, for the purpose of engaging or supplying any seaman to be entered on board any ship, he shall for each seaman so engaged or supplied be punished with fine which may extend to one hundred rupees, and, if licensed, shall in addition forfeit his license.

(c) If any person knowingly receives or accepts to be entered on board any ship any seaman who has been engaged or supplied contrary

to the provisions of this Act, he shall for every seaman so engaged or supplied be punished with fine which may extend to one hundred rupees.

23. If any person demands or receives, either directly or indirectly, from any seaman, or from any person seeking employment as a seaman, or from any person on his behalf, any remuneration whatever, other than the fees hereby authorized, for providing him with employment, he shall for every such offence be punished with fine which may extend to fifty rupees, and, if licensed as aforesaid, shall in addition forfeit his license.

24. The master of every ship, except ships of a burden not exceeding three hundred tons employed only in the home-trade, shall enter into an agreement with every seaman whom he engages in, and carries to sea from, any port in British India as one of his crew, in the manner hereinafter mentioned.

25. Every such agreement shall be in a form sanctioned by the Governor General in Council, and shall be dated at the time of the first signature thereof, and shall be signed by the master before any seaman signs the same, and shall contain the following particulars as terms thereof, that is to say:—

(a) either the nature and, as far as practicable, the duration of the intended voyage or engagement, or the maximum period of the voyage or engagement, and the places or parts of the world, if any, to which the voyage or engagement is not to extend;

(b) the number and description of the crew, specifying how many are engaged as sailors;

(c) the time at which each seaman is to be on board or to begin work;

(d) the capacity in which each seaman is to serve;

(e) the amount of wages which each seaman is to receive;

(f) a scale of the provisions which are to be furnished to each seaman; and

(g) any regulations as to conduct on board, and as to fines, short allowance of provisions or other lawful punishments for misconduct, which have been sanctioned by the Governor General in Council as regulations proper to be adopted, and which the parties agree to adopt.

And every such agreement shall be so framed as to admit of stipulations to be adopted at the will of the master and seaman in each case (not being inconsistent with the provisions of any enactment for the time being in force relating to merchant shipping), as to advance of wages and supply of warm clothing, and may contain any other stipulations which are not contrary to law.

26. In the case of such agreements with lascars or other Native seamen, the scale of the provisions agreed to be furnished to each of such seamen shall not be less than a scale to be from time to time fixed and published by the Local Government with the previous sanction of the Governor General in Council.

Any master entering into an agreement with any lascar or other Native seaman for a scale of pro-

See sec. 82 of the Bill which became Act VII of 1880.

visions less than the scale so fixed and published shall be punished with fine which may extend to two hundred rupees.

Act IV of  
1875, s. 26.

27. Whenever it is agreed that the service of any lascar or other Native seaman shall end at any port not in British India, the

Stipulation where lascars are shipped.

agreement shall, in addition to the particulars specified in section twenty-five, contain a stipulation that fit employment shall be provided for him on board some other ship bound to the port at which he was shipped, or such other port in British India as may be agreed on; or

that a passage shall be provided for him to some port in British India free of charge, or on such other terms as may be agreed on;

and every such stipulation shall be signed by the owner of the ship, or by the master on his behalf.

EXPLANATION.—In this section the word "seaman" includes also a Native of British India carried to sea from any port in British India as one of the crew of a ship.

Act IV of  
1875, s. 7.

28. If the master of any ship belonging to the United Kingdom or any British possession has an agreement with his crew,

Forms for British or Colonial ships.

made in due form according to the law of the place to which such ship belongs, or in which her crew were engaged, and engages a single seaman, not being a lascar or other Native seaman, in any port in British India, such seaman may sign the agreement so made, and it shall not be necessary for him to sign an agreement under this Act.

Act I of 1859,  
s. 22.

29. In the case of all foreign-going ships, in whatever part of Her Majesty's dominions the same are registered, the following rules shall be observed with respect to agreements; (that is to say)—

Rules as to agreements in case of foreign-going ships.

(a) Every agreement made in any port in British India (except in such cases of agreements with substitutes as are hereafter specially provided for) shall be signed by each seaman in the presence of a shipping master.

(b) Such shipping master shall cause the agreement to be read over and explained to each seaman, in a language understood by him, or shall otherwise ascertain that each seaman understands the same before he signs it, and shall attest each signature.

(c) When the crew is first engaged the agreement shall be signed in duplicate, and one part shall

be retained by the shipping master, and the other part shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship, and shall be delivered to the master.

(d) In the case of substitutes engaged in the place of seamen who have duly signed the agreement

and whose services are lost within twenty-four hours of the ship's putting to sea by death, desertion or other unforeseen cause, the engagement shall, when practicable, be made before some shipping master duly appointed in the manner hereinbefore specified; and whenever such last-mentioned engagement cannot be so made, the master shall, before the ship puts to sea, if prac-

ticable, and if not, as soon afterwards as possible, cause the agreement to be read over and explained to the seamen; and the seamen shall thereupon sign the same in the presence of a witness, who shall attest their signatures.

30. In the case of foreign-going ships making voyages averaging less than six months in duration, running agreements with the crew may be made to extend

Foreign-going ships making short voyages may have running agreements.

over two or more voyages, so that no such agreement shall extend beyond the next following thirtieth day of June or thirty-first day of December, or the first arrival of the ship at her port of destination in British India after such date, or the discharge of cargo consequent upon such arrival; and every person entering into such agreement, whether engaged upon the first commencement thereof or otherwise, shall enter into and sign the same in the manner hereby required for other foreign-going ships; and every person engaged thereunder, if discharged in any port in British India, shall be discharged in the manner hereby required for the discharge of seamen belonging to other foreign-going ships.

31. The master of every foreign-going ship for which such a running agreement as aforesaid is made shall, upon every return to

Engagement and discharge of seamen in the meantime.

any port in British India before the final termination of the agreement, discharge or engage before the shipping master at such port any seaman whom he is required by law so to discharge or engage; and shall upon every such return endorse on the agreement a statement (as the case may be) either that no such discharges or engagements have been made or are intended to be made before the ship again leaves port, or that all such discharges or engagements have been duly made as heretofore required; and shall deliver the agreement so endorsed to the shipping master. Any master who wilfully makes a false statement in such endorsement shall be punished with fine which may extend to two hundred rupees. The shipping master shall also sign an endorsement on the agreement to the effect that the provisions of this Act relating to such agreement have been complied with, and shall re-deliver the agreement so endorsed to the master.

32. For the purpose of determining the fees to be paid on such engagement and discharge of seamen belonging to foreign-going ships which have running agreements as aforesaid, the crew shall be considered to be engaged when the agreement is first signed, and to be discharged when the agreement finally terminates; and all intermediate engagements and discharges shall be considered to be engagements and discharges of single seamen.

Fees to be paid on such running agreements.

ment and discharge of seamen belonging to foreign-going ships which have running agreements as aforesaid, the crew shall be considered to be engaged when the agreement is first signed, and to be discharged when the agreement finally terminates; and all intermediate engagements and discharges shall be considered to be engagements and discharges of single seamen.

33. In the case of home-trade ships of a burden exceeding three hundred tons, crews or single seamen may, if the master thinks fit, be engaged before a shipping master in the manner hereinbefore directed with respect to foreign-going ships; and in every case in which the engagement is not so made, the master shall, before the ship puts to sea, if practicable, and if not, as soon afterwards as possible, cause the agreement to be read over and explained to each

In home-trade ships agreement to be entered into before a shipping master or other witness.

engaged before a shipping master in the manner hereinbefore directed with respect to foreign-going ships; and in every case in which the engagement is not so made, the master shall, before the ship puts to sea, if practicable, and if not, as soon afterwards as possible, cause the agreement to be read over and explained to each

seaman, and the seaman shall thereupon sign the same in the presence of a witness, who shall attest his signature.

Act I of 1859.  
s. 27.

**34.** In cases where several home-trade ships belong to the same owner, the agreement with the seamen may, notwithstanding anything herein contained, be made by the owner instead of by the master, and the seamen may be engaged to serve in any two or more of such ships, provided that the names of the ships and the nature of the service are specified in the agreement; but, with the foregoing exception, all provisions herein contained which relate to ordinary agreements for home-trade ships shall be applicable to agreements made in pursuance of this section.

Act I of 1859.  
s. 28.

**35.** If in any case a master carries any seaman to sea without entering into an agreement with him in the form and manner and at the place and time hereby in such case required, the master shall for each such offence be punished with fine which may extend to fifty rupees.

Act I of 1859.  
s. 29.

**36.** The master of every foreign-going ship, of which the crew has been engaged before a shipping master, shall, before finally leaving British India, sign and send to the nearest shipping master a full and accurate statement, in a form sanctioned by the Governor General in Council, of every change which takes place in his crew before finally leaving British India, and in default shall for each offence be punished with fine which may extend to fifty rupees; and such statement shall be admissible in evidence subject to all just exceptions.

Act I of 1859.  
s. 30.

**37.** For the purpose of preventing any seamen from being shipped at any port in British India contrary to the provisions of this Act, the shipping master by himself or his deputy may enter at any time on board any ship upon which he shall have reason to believe that seamen have been shipped, and may muster and examine the several seamen employed therein; and any person who shall obstruct the said shipping master or deputy in such duty shall be punished with fine which may extend to one hundred rupees.

Act I of 1859.  
s. 115.

**38.** When the master of a foreign ship being at any port in British India engages any lascar or other Native seaman to proceed to any port out of British India, he shall enter into an agreement with such seaman, and the agreement shall be made before a shipping master in the manner hereinbefore provided for the making of agreements in the case of foreign-going ships, and all the provisions of sections twenty-five, twenty-six, twenty-seven and twenty-nine respecting the form of such agreements and the stipulations to be contained in them and the making and signing of the same, shall be applicable to the engagement of such seaman; and the master of such foreign ship shall give to the shipping master a bond with the security of some approved person resident in British India for an amount calculated at the rate of one hundred rupees for every such seaman and conditioned for the due performance of the said agreement and stipulations.

**39.** The fees fixed under section eight shall be payable in respect of every such engagement, and deductions from the wages of seamen so engaged may be made to the extent and in the manner allowed by section nine.

**40.** If any lascar or other Native seaman is engaged by the master of any foreign ship otherwise than is allowed in the two last preceding sections, such master shall be punished with fine which may extend to one hundred rupees for every such seaman so engaged. The shipping master, by himself or his deputy, may enter on board any foreign ship upon which he has reason to believe that any such seaman has been shipped, and the provisions of section thirty-seven shall be applicable in respect of every such ship.

**41.** The following rules shall be observed with respect to the production of agreements and certificates of competency or service for foreign-going ships (that is to say):—

(a) The master of every foreign-going ship shall, on signing the agreement with his crew, produce to the shipping master before whom the same is signed, the certificates of competency or service which the said master and his mate are hereby required to possess; and upon such production being duly made, and the agreement being duly executed as hereby required, the shipping master shall sign and give to the master a certificate to that effect.

(b) In the case of running agreements for foreign-going ships, the shipping master shall before the second and every subsequent voyage made after the first commencement of the agreement, sign and give to the master, on his complying with the provisions herein contained with respect to such agreements, and producing to the shipping master the certificate of competency or service of any mate then first engaged by him, a certificate to that effect.

(c) The master of every foreign-going ship shall, before proceeding to sea, produce the certificate so to be given to him by the shipping master as aforesaid to the collector of customs, or, if there be no collector of customs, to the officer whose duty it is to grant a port-clearance. No officer of customs or other officer shall clear any such ship outwards without such production; and if any such ship attempts to go to sea without a clearance, any such officer may detain her until such certificate as aforesaid is produced.

(d) The master of every foreign-going ship shall, within forty-eight hours after the ship's arrival at her final port of destination in British India, or upon the discharge of the crew, whichever first happens, deliver such agreement to a shipping master at the place; and such shipping master shall thereupon give to the master a certificate of such delivery; and no officer of customs or other officer shall clear any foreign-going ship inwards without the production of such certificate.

And if the master of any foreign-going ship fails to deliver the agreement to a shipping master at the time and in the manner hereby directed, he shall for every default be punished with fine which may extend to fifty rupees.

Act I of 1859,  
s. 32.

42. The following rules shall be observed with respect to the production of agreements and certificates of competency or service for home-trade ships of a burden exceeding three hundred tons; (that is to say)—

(a) No such agreement shall extend beyond the next following thirtieth day of June or thirty-first day of December, or the first arrival of the ship at her final port of destination in British India after such date, or the discharge of cargo consequent upon such arrival.

(b) The master or owner of every such ship shall, within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year, or (if the ship is not at any port in British India within twenty-one days after either the thirtieth day of June or the thirty-first day of December in any year) within forty-eight hours after her next arrival at any port in British India, transmit or deliver to some shipping master in British India every agreement made within the six months next preceding such days respectively, and shall also produce to the shipping master the certificates of competency or service which the said master and his mate are hereby required to possess.

(c) The shipping master shall thereupon give to the master or owner a certificate of such delivery and production; and no officer of customs or other officer authorized to grant a port-clearance shall grant a clearance for any such ship without the production of such certificate; and if any such ship attempts to go to sea without such clearance, any such officer may detain her until the said certificate is produced.

And if the agreement for any home-trade ship is not delivered or transmitted by the master or owner to a shipping master at the time and in the manner hereby directed, such master or owner shall for every default be punished with fine which may extend to fifty rupees.

Act I of 1859,  
s. 33.

43. Every erasure, interlineation, or alteration in any such agreement with seamen as is required by this Act (except additions so made as hereinbefore directed for shipping substitutes or persons engaged subsequently to the first departure of the ship) shall be wholly inoperative, unless proved to have been made with the consent of all the persons interested in such erasure, interlineation, or alteration by the written attestation (if made in Her Majesty's dominions) of some shipping master, justice, officer of customs, or other public functionary, or (if made out of Her Majesty's dominions) of a British consular officer, or where there is no such officer, of two respectable British merchants.

Act I of 1859,  
s. 34.

44. The master shall, at the commencement of every voyage or engagement, be made accessible to the crew, cause a legible copy of the agreement, and, if necessary, a translation thereof in a language understood by the majority of the crew (omitting the signatures), to be placed or posted up in such part of the ship as to be accessible to the crew, and in default shall for each offence be punished with fine which may extend to fifty rupees.

Act I of 1859,  
s. 35.

45. Any seaman who has signed an agreement, and is afterwards discharged before the commencement of the voyage or before one

month's wages are earned, without fault on his part justifying such discharge and without his consent, shall be entitled to receive from the master or owner, in addition to any wages he may have earned, due compensation for the damage thereby caused to him, not exceeding one month's wages, and may, on adducing such evidence as the Court or Magistrate hearing the case deems satisfactory, of his having been so improperly discharged as aforesaid, recover such compensation as if it were wages duly earned.

46. The Local Government, or such officer as it appoints in this behalf, may, by order in writing signed by its secretary or by such officer, prohibit any person from engaging in the territories subject to the said Government, or in any specified portion of such territories, any Native of India to serve as a seaman on board any ship specified in such order; but in all such cases the reasons for the prohibition shall be stated in writing.

Whoever wilfully disobeys the prohibition contained in this section shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

## CHAPTER V.

### WAGES.

#### A.—Regulation of Advances.

47. No advance of wages shall be made or advance-note given to any person but the seaman himself; and no advance of wages shall be made or advance-note given for any greater sum than the amount of one month's wages, nor unless the agreement contains a stipulation for the same and an accurate statement of the amount thereof, and no advance-note shall be given to any seaman who signs the agreement before a shipping master, unless in the presence of such shipping master.

48. If any advance of wages is made or any advance-note given to any seaman in any such manner as to constitute a breach of any of the above provisions, the wages of such seaman shall be recoverable by him as if no such advance had been made or advance-note given, and in the case of any advance-note so given, no person shall be sued thereon under the provisions hereinafter contained unless he was in person or by his agent a party to the irregular or improper manner of giving the same.

#### B.—Allotment of Wages.

49. All stipulations for the allotment of any part of the wages of a seaman during his absence, which are made at the commencement of the voyage, shall be inserted in the agreement, and shall state the amounts and times of the payments to be made. All allotment-notes shall be in forms sanctioned by the Local Government, and shall be made for the benefit only of a relative of the seaman or some member of his family to be named in the note, and shall be payable to the shipping master on account of such relative of the



seaman or member of his family. Such allotment shall not in any case exceed one-third of the wages of the seaman.

Act I of 1859,  
s. 39.

50. The owner or any agent who has authorized the drawing of an allotment-note shall pay to the shipping master the sums allotted.

the sums allotted by the note, when and as the same are made payable, unless the seaman is shown in manner hereinafter mentioned to have forfeited or ceased to be entitled to the wages out of which the allotment is to be paid; and in the event of such sums not being paid to the shipping master on

Suits on allotment-notes.

Evidence.

demand, the shipping master may sue for and recover them with costs. The seaman shall be presumed to be duly earning his wages, unless the contrary is shown to the satisfaction of the Court or Magistrate, either by the official statement of the change in the crew caused by his absence made and signed by the master, as by this Act is required, or by a duly certified copy of some entry in the official log-book, to the effect that he has died or left the ship, or by a credible letter from the master of the ship to the same effect, or by such other evidence, of whatever description, as the Court or Magistrate trying the case considers sufficient to show satisfactorily that the seaman has ceased to be entitled to the wages out of which the allotment is to be paid.

Act I of 1859,  
s. 40.

51. The shipping master, on receiving any such sum as aforesaid, shall pay it over to the person named in the allotment-note. All such receipts and payments shall be entered in a book, and all entries in the said book shall be authenticated by the signature of the shipping master or his deputy; and the said book shall be at all times open to the inspection of the parties concerned.

#### C.—Discharge and Payment of Wages.

Act I of 1859,  
s. 41.

52. All seamen discharged from any foreign-going ship at any port in British India in whatever part of Her Majesty's dominions the ship is registered, shall be discharged and receive their wages in the presence of a shipping master duly appointed under this Act, except in cases where some competent Court otherwise directs; and any master or owner of any such ship who discharges any seaman belonging thereto, or, except as aforesaid, pays his wages in any other manner, shall be punished with fine which may extend to one hundred rupees; and in the case of home-trade ships of a burden exceeding three hundred tons, seamen may, if the owner or master so desires, be discharged and receive their wages in like manner.

Act I of 1859,  
s. 42.

53. Every master shall, not less than twenty-four hours before paying off or discharging any seaman, deliver to him, or, if he is to be discharged before a shipping master, to such shipping master, a full and true account, in a form sanctioned by the Local Government, of his wages and of all deductions to be made therefrom on any account whatever, and in default shall for each

offence be punished with fine which may extend to fifty rupees. No deduction from the wages of any seamen (except in respect of any matter happening after such delivery) shall be allowed unless it is included in the account so delivered; and the master shall during the voyage enter the various matters in respect of which such deductions are made, with the amounts of the respective deductions as they occur, in a book to be kept for that purpose, and shall, if required, produce such book at the time of the payment of wages and also upon the hearing before any competent authority of any complaint or question relating to such payments.

54. Upon the discharge of any seaman or upon payment of his wages, the master shall sign and give him a certificate of his discharge, in a form sanctioned by the Local Government specifying the period of his service and the time and place of his discharge; and if any master fails to sign and give to any such seaman such certificate of discharge, he shall for each such offence be punished with fine which may extend to one hundred rupees; and the master shall also upon the discharge of every certificated mate, whose certificate of competency or service has been delivered to and retained by him, return such certificate, and shall in default be punished with fine which may extend to two hundred rupees.

On discharge, masters to give seamen certificates of discharge, and return certificates of competency or service to mates.

payment of his wages, the master shall sign and give him a certificate of his discharge, in a form sanctioned by the Local Government specifying the period of his

service and the time and place of his discharge; and if any master fails to sign and give to any such seaman such certificate of discharge, he shall for each such offence be punished with fine which may extend to one hundred rupees; and the master shall also upon the discharge of every certificated mate, whose certificate of competency or service has been delivered to and retained by him, return such certificate, and shall in default be punished with fine which may extend to two hundred rupees.

55. Every shipping master shall hear and decide any question whatever between a master or owner and any of his crew which both parties agree in writing to submit to him; and every award so made by him shall be binding on both parties, and shall in any legal proceeding which may be taken in the matter before any Court or Magistrate, be deemed to be conclusive as to the rights of the parties; and any document purporting to be such submission or award shall be *prima facie* evidence thereof.

Shipping master may decide questions which parties refer to him.

any question whatever between a master or owner and any of his crew which both parties agree in writing to submit to him; and every award so made by him shall be binding on both parties, and shall in any legal proceeding which may be taken in the matter before any Court or Magistrate, be deemed to be conclusive as to the rights of the parties; and any document purporting to be such submission or award shall be *prima facie* evidence thereof.

An award made by a shipping master under this section may be enforced by a Magistrate in the same manner as an order for the payment of wages made by such Magistrate under the provision of section sixty-seven.

How award may be enforced.

this section may be enforced by a Magistrate in the same manner as an order for the payment of wages made by such Magistrate under the provision of section sixty-seven.

56. In any proceeding relating to the wages, claims, or discharge of any seaman carried on before any shipping master under the provisions of this Act, such shipping master may call upon the owner or his agent, or upon the master or any mate or other member of the crew, to produce any log-books, papers, or other documents in their respective possession or power relating to any matter in question in such proceeding, and may call before him and examine any of such persons being then at or near the place on any such matter.

Master and others to produce ship's papers to shipping masters, and give evidence.

claims, or discharge of any seaman carried on before any shipping master under the provisions of this Act, such shipping master may call upon the owner or his agent, or upon the master or any mate or other member of the crew, to produce any log-books, papers, or other documents in their respective possession or power relating to any matter in question in such proceeding, and may call before him and examine any of such persons being then at or near the place on any such matter.

Every owner, agent, master, mate or other member of the crew who, when called upon by the shipping master, does not produce any such paper or document as aforesaid if in his possession or power, or does not appear and give evidence, shall, unless he shows some reasonable excuse for such default, for each such offence be punished with fine which may extend to fifty rupees.

Master to deliver account of wages.

four hours before paying off or discharging any seaman, deliver to him, or, if he is to be discharged before a shipping master, to such shipping master, a full and true account, in a form sanctioned by the Local Government, of his wages and of all deductions to be made therefrom on any account whatever, and in default shall for each

Act I of 1859,  
s. 6.

57. The following rules shall be observed with respect to the settlement of wages; (that is to say)—

(a) Upon the completion before a shipping master of any discharge and settlement, the master or owner and each seaman shall respectively, in the presence of the shipping master, sign, in a form sanctioned by the Local Government, a mutual release of all claims in respect of the past voyage or engagement, and the shipping master shall also sign and attest the release and shall retain the same.

(b) Such release so signed and attested shall operate as a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement.

(c) A copy of such release, certified under the hand of such shipping master to be a true copy, shall be given by him to any party thereto requiring the same, and such copy shall be receivable in evidence upon any future question touching such claims as aforesaid, and shall have all the effect of the original of which it purports to be a copy.

(d) In cases in which discharge and settlement before a shipping master are hereby required, no payment, receipt, settlement, or discharge otherwise made shall operate or be admitted as evidence of the release or satisfaction of any claim.

(e) Upon any payment being made by a master before a shipping master, the shipping master shall, if required, sign and give to such master a statement of the whole amount so paid, and such statement shall, as between the master and his employer, be received as evidence that he has made the payments therein mentioned.

Act XIII of  
1876, s. 4.

58. No seaman or apprentice not shipped in British India shall be discharged without the previous sanction in writing of such officer as the Local Government appoints in this behalf, and such sanction shall be given or withheld at the discretion of the officer so appointed; but whenever it is withheld, the reasons for so withholding it shall be recorded by him in writing.

Any person discharging a seaman or apprentice in wilful disobedience to the prohibition contained in this section, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

#### D.—Legal Right to Wages.

Act I of 1859,  
s. 47.

59. A seaman's right to wages and provisions shall be taken to commence either at the time at which he commences work, or at the time specified in the agreement for his commencement of work or presence on board, whichever first happens.

Act I of 1859,  
s. 48.

60. No seaman shall by any agreement forfeit his lien upon the ship or be deprived of any remedy for the recovery of his wages to which he would otherwise have been entitled; and every stipulation in any agreement inconsistent with any provision of this Act, and every stipulation by which any

seaman consents to abandon his rights to wages in the case of the loss of the ship or to abandon any right which he may have or obtain in the nature of salvage, shall be wholly inoperative.

61. No right to wages shall be dependent on the earning of freight; and every seaman and apprentice who would be entitled to demand and recover any wages if the ship in which he has served had earned freight, shall, subject to all other rules of law and conditions applicable to the case be entitled to claim and recover the same notwithstanding that freight has not been earned; but in all cases of wreck or loss of the ship, proof that he has not exerted himself to the utmost to save the ship, cargo, and stores shall bar his claim.

62. If any seaman or apprentice to whom wages are due under the last preceding section dies before the same are paid, they shall be paid and applied in the manner hereinafter specified with regard to the wages of seamen who die during a voyage.

63. In cases where the service of any seaman terminates before the period contemplated in the agreement by reason of the wreck or loss of the ship, and also in cases where such service terminates before such period as aforesaid by reason of his being left on shore at any place abroad under a certificate of his unfitness or inability to proceed on the voyage granted under the provisions of the Merchant Shipping Act, 1854, such seaman shall be entitled to wages for the time of service prior to such termination as aforesaid, but not for any further period.

64. No seaman or apprentice shall be entitled to wages for any period during which he unlawfully refuses or neglects to work when required, whether before or after the time fixed by the agreement for his beginning work; nor unless the Court or Magistrate hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him.

65. The master or owner of every ship shall pay to every seaman his wages within three days after the cargo has been delivered, or within five days after the seaman's discharge, whichever first happens; and the seaman shall at the time of his discharge be entitled to be paid on account a sum equal to one-fourth part of the balance due to him; and every master or owner who neglects or refuses to make payment in manner aforesaid without sufficient cause, shall pay to the seaman a sum not exceeding the amount of two day's pay for each of the days not exceeding ten days during which payment is delayed beyond the respective periods aforesaid; and such sum shall be recoverable as wages.

66. When any monies are payable in British India to any seaman or apprentice for wages or otherwise under any agreement wherein such monies are expressed to be payable in British currency, the seaman or apprentice shall be entitled to demand and recover, in the current coin of British India,

the amount due to him estimated according to the rate of exchange for the time being fixed by the Secretary of State for India in Council, with the concurrence of the Lords Commissioners of Her Majesty's Treasury for the adjustment of financial transactions between the Imperial and the Indian Governments.

*E.—Mode of recovering Wages.*

Act I of 1859, s. 55. 67. Any seaman or apprentice or any person duly authorized on his behalf may sue, in a summary manner, before any Magistrate acting in or near to the place at which the service has terminated or at which the seaman or apprentice has been discharged or at which any person upon whom the claim is made is or resides, for any amount of wages due to such seaman or apprentice not exceeding five hundred rupees.

Order of Magistrate final. Every order made by such Magistrate in the matter shall be final.

Act I of 1859, s. 54. 68. When an order for the payment of wages is made by a Magistrate under the last preceding section and the wages are not paid at the time and in the manner prescribed, the sum mentioned in the order, with such further sum as may be thereby awarded for costs, shall be levied by distress and sale of the goods and chattels of the person directed to pay the same under a warrant to be issued for that purpose by the Magistrate.

Act I of 1859, s. 57. 69. No suit or proceeding for the recovery of wages under the sum of five hundred rupees shall be instituted by or on behalf of any seaman or apprentice in any Court of Admiralty or Vice-Admiralty or in any Court of civil judicature other than the Court of Small Causes, where such Court exists, unless the owner of the ship is adjudged bankrupt or declared insolvent, or unless the ship is under arrest or is sold by the authority of any such Court, or unless the Magistrate, acting under the authority of this Act, refers the case to be adjudged by such Court.

Act I of 1859, s. 58. 70. Every master of a ship shall, so far as the case permits, have the same rights, liens, and remedies for the recovery of his wages which by this Act or by any law or custom any seaman, not being a master, has for the recovery of his wages; and if, in any proceeding in any Court of Admiralty or Vice-Admiralty touching the claim of a master to wages, any right of set-off or counter-claim is set up, it shall be lawful for such Court to enter into and adjudicate upon all questions, and to settle all accounts then arising or outstanding and unsettled between the parties to the proceeding, and to direct payment of any balance which is found to be due.

See Act XIII of 1878, s. 1. 71. In cases where any wages or expenses recoverable under section 213 of the Merchant Shipping Act, 1854, or under section 16 of the Merchant Shipping Act Amendment Act, 1855, are, under the same sections, a charge upon any ship, or recoverable from any master, owner or other person, within the jurisdiction of any Court in British India, the Governor General in Council may from

time to time, by notification in the *Gazette of India*, authorize, either generally or specially, such persons as he thinks fit to sue for and recover, in manner in the Merchant Shipping Act, 1854, section 213, provided, such wages or expenses.

Every person so authorized shall be entitled to sue and recover accordingly in any such Court, and shall be deemed to be a person filling a public office within the meaning of the Indian Evidence Act, 1872, section 57, clause 7.

All suits and proceedings under this section shall be instituted and carried on in the name of the Secretary of State for India in Council. See Act XIII of 1878, s. 2.

CHAPTER VI.

WAGES AND EFFECTS OF DECEASED SEAMEN.

72. Whenever a seaman or apprentice, on a voyage which is to terminate at any port in British India dies during such voyage, the master shall take charge of all money, clothes and effects which he leaves on board, and shall enter in the official log-book a statement of the amount of money and a description of the effects left by the deceased, and in case of a sale of such effects, the sum received for each article sold. Act I of 1859, s. 59.

73. The master shall, within forty-eight hours after his arrival at his port of destination in British India, deliver any such effects as aforesaid, and pay any money which he has taken charge of or received, and also the wages due to deceased, to the shipping master at such port, and shall give to such shipping master an account of the effects, money, and wages so to be delivered and paid; and no deductions claimed in such accounts shall be allowed unless verified, if there is an official log-book, by the entry therein hereinbefore required, and also by such other vouchers (if any) as may be reasonably required by the shipping master to whom the account is rendered. Act I of 1859, s. 60.

74. If the master fails to take such charge of the money or other effects of a seaman or apprentice dying during a voyage, or to make such entries in respect thereof, or to make such payment or delivery, or to give such account as hereinbefore respectively directed, he shall be accountable for the money, wages, and effects of the seaman or apprentice to the shipping master as aforesaid, and shall pay and deliver the same accordingly; and such master shall in addition be punished with fine which may extend to treble the value of the money or effects, or if such value is not ascertained, to five hundred rupees. Act I of 1859, s. 61.

All money, wages and effects of any seaman or apprentice dying during a voyage shall be recoverable in the same Courts and by the same modes of proceeding by which seamen are hereby enabled to recover wages due to them.

75. When money or effects left by or due to any deceased seaman or apprentice, are paid or delivered to a shipping master, then, subject to such deductions for expenses incurred in respect of the seaman or apprentice or of his said money and effects as the shipping master thinks proper to allow, the shipping master may pay and



deliver the said money and effects to any claimants who can prove themselves to the satisfaction of the said shipping master to be entitled thereto, and the said shipping master shall be thereby discharged from all further liability in respect of the money and effects so paid and delivered; or if he think fit so to do the shipping master may require probate or letters of administration or a certificate under Act XXVII of 1860 (for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons) to be taken out, and thereupon pay and deliver the said money and effects to the legal representative of the deceased.

Act I of 1859,  
s. 63.

76. In cases of wages or effects of deceased seamen or apprentices received by any shipping master to which no claim is substantiated within one year from the receipt thereof by such shipping master, it shall be the duty of the shipping master to cause such effects to be sold and to pay the proceeds of the sale and the unclaimed wages into the public treasury. If any subsequent claim is made to such

money and is established to the satisfaction of the shipping master, the amount or so much as shall appear to be due to the claimant, shall be paid out of the public treasury. If the claim is not established to the satisfaction of the shipping master, the claimant may apply by petition to the High Court, and such Court, after taking evidence, either orally or on affidavit, shall make such order on the

Proviso.

petition as seems just: Provided that, after the expiration of six years from the receipt of such wages or effects by the shipping master, no such claim shall be entertained without the sanction of the Local Government.

## CHAPTER VII.

### PROVISIONS, HEALTH AND ACCOMMODATION.

Act I of 1859,  
s. 64.

77. Any three or more of the crew of any ship registered at, trading with, or being at any port or place in British India, may complain to any shipping master or other officer duly appointed in this behalf by the Local Government that the provisions or water for the use of the crew are at any time of bad quality, unfit for use, or deficient in quantity. Such officer may thereupon examine the said provisions or water, or cause them to be examined; and if, on examination, such provisions or water are found to be of bad quality and unfit for use, or to be deficient in quantity, the person making such examination shall signify the same in writing to the master of the ship.

If such master does not thereupon provide other proper provisions or water in lieu of any so signified to be of a bad quality and unfit for use, or does not procure the requisite quantity of any so signified to be insufficient in quantity, or uses any provisions or water which have been so signified as aforesaid to be of a bad quality and unfit for use, he shall in every such case be punished with fine which may extend to two hundred rupees.

Upon every such examination as aforesaid, the officers making or directing the same shall enter a statement of the result of the examination in the official log, and shall send a report thereof to the shipping master, and such report, if produced out

of the custody of such shipping master, shall be received in evidence in any legal proceeding.

78. If the officer to whom any such complaint is made, as last aforesaid is made, certifies in such statement as aforesaid that there was no reasonable ground for such complaint, each of the parties so complaining shall be liable to forfeit to the owner out of his wages a sum not exceeding one week's wages.

Allowance for short or bad provisions.

79. In the following cases (that is to say):—

Act I of 1859,  
s. 66.

(a) if during a voyage the allowance of any of the provisions which any seaman has by his agreement stipulated for, is reduced (except in accordance with any regulations for reduction by way of punishment contained in the agreement, and also except for any time during which such seaman wilfully and without sufficient cause refuses or neglects to perform his duty or is lawfully under confinement for misconduct, either on board or on shore),

(b) if it is shown that any of such provisions are or have during the voyage been bad in quality and unfit for use,

the seaman shall receive by way of compensation for such reduction or bad quality, according to the time of its continuance, the following sums, to be paid to him in addition to and to be recoverable as wages (that is to say):—

(1) If his allowance is reduced by any quantity not exceeding one-third of the quantity specified in the agreement, a sum not exceeding three annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or one anna in the case of a lascar or Native seaman:

(2) If his allowance is reduced by more than one-third of such quantity, six annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or two annas in the case of a lascar or Native seaman:

(3) In respect of such bad quality as aforesaid, a sum not exceeding eight annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or three annas in the case of a lascar or Native seaman.

But if it is shown to the satisfaction of the Court or Magistrate trying the case, that any provisions, the allowance of which has been reduced, could not be procured or supplied in proper quantities, and that proper and equivalent substitutes were supplied in lieu thereof, such Court or Magistrate shall take such circumstances into consideration and shall modify or refuse compensation as the justice of the case may require.

80. All foreign-going ships and all home-trade ships of a burden exceeding three hundred tons shall have always on board a sufficient supply of medicines and appliances, suitable for diseases and accidents likely to happen on sea voyages, according to such scale as shall be from time to time issued by the Local Government with the approval of the Governor General in Council, and published at Calcutta, Madras and Bombay in the local official Gazettes, and in default thereof, the owner or master

Medicines, &c., to be provided and kept on board certain ships.

Act I of 1859,  
s. 67.

of every such ship shall be punished with fine which may extend to two hundred rupees: Pro-

Provided,

however, that this section shall not apply to ships navigating from the United Kingdom and coming within the provisions of section 224 of the Merchant Shipping Act, 1854.

Act I of 1859, s. 68. 81. Every master shall keep on board proper weights and measures for the purposes of determining the quantities of the several provisions and articles served out, and shall allow the same to be used at the time of serving out such provisions and articles in the presence of a witness whenever any dispute arises about such quantities, and in default shall for every offence be punished with fine which may extend to one hundred rupees.

Act I of 1859, s. 69. 82. Whenever the master or any seaman of any ship registered at any place in British India shall receive any hurt or injury in the service of the ship, the expense of providing the necessary surgical and medical advice and attendance with medicines, and of his subsistence, until he shall be cured or shall be brought back to the port from which he was shipped or other port agreed upon, shall be defrayed, with the cost of his conveyance to such port, by the owner of the ship without any deduction on that account from the wages of such master, officer, or seaman; and if paid by himself, may be recovered as part of his wages; and if paid or allowed out of any monies forming part of the revenues of British India, shall be a charge upon the ship, and may be recovered with full costs of suit by the Secretary of State for India in Council.

Act I of 1859, s. 70. 83. A place or places of shelter shall be provided below a well caulked and substantial deck for the men engaged under this Act; such place or places shall be so arranged as to allow for the men the following spaces:—

(a). For each European seaman or apprentice or other person shipped on the same footing as a European seaman, ten superficial feet if the place be not less than six feet in height from deck to deck; or sixty cubic feet if the height from deck to deck be less than six feet.

(b). For each lascar or Native seaman or other person shipped on the same footing as a lascar, six superficial and thirty-six cubic feet; and if the place allotted be under the top-gallant fore-castle, such fore-castle deck shall be not less than four feet six inches above the one below it.

Every such place shall be kept free from stores or goods of any kind, not being the personal property of the crew in use during the voyage; and if any such place in any ship is not in the whole sufficiently large to give such space for each seaman

and apprentice as hereinbefore required, or is not properly caulked and in all other respects securely and properly constructed and well ventilated, the owner shall, for every such failure to comply with the provisions of this section, be punished with fine which may extend to two hundred rupees; and if any such space

as aforesaid is not kept free from goods and stores as aforesaid, the master shall, for every such failure to comply with the provisions of this section, be punished with fine which may extend to one hundred rupees.

84. The shipping-master at any port in British India, by himself or his deputy, may enter at any time on board of any ship upon which seamen have been shipped at such port, and inspect the provisions and water provided for the use of the crew, and the medicines and appliances and the accommodation for seamen prescribed by this Act or by the Merchant Shipping Act, 1854. Procedure if provisions, &c., are found to be bad. If on inspection the provisions or water are found to be of bad quality and unfit for use or to be deficient in quantity, the shipping-master shall proceed as provided in section seventy-seven, and the penalty prescribed in the said section shall be incurred by any default of the master of the ship in respect of such provisions or water.

## CHAPTER VIII.

### POWER TO MAKE COMPLAINTS.

85. If any seaman or apprentice, whilst on board any ship, states to the master that he desires to make complaint to a Magistrate against the master or any of the crew, the said master shall, if the ship is then at a place where there is a Magistrate, so soon as the service of the ship will permit, and if the ship is not then at such a place, so soon after her first arrival at such a place as the service of the ship will permit, allow such seaman to go ashore, or send him ashore in proper custody, so that he may be enabled to make such complaint, and shall, in default, be punished with fine which may extend to one hundred rupees.

## CHAPTER IX.

### PROTECTION OF SEAMEN FROM IMPOSITION.

86. No wages due or accruing to any seaman or apprentice shall be subject to attachment from any Court; and every payment of wages to a seaman shall be valid in law, notwithstanding any previous sale or assignment of such wages or of any incumbrance thereon; and no assignment or sale of such wages, or of salvage made prior to the accruing thereof, shall bind the party making the same; and no power-of-attorney or authority for the receipt of any such wages or salvage shall be irrevocable.

87. No debt exceeding in amount three rupees incurred by any seaman after he has engaged to serve, shall be recoverable until the service agreed for is concluded.

88. If any person demands or receives from any seaman or apprentice payment in respect of his board or lodging in the house of such person for a longer period than such seaman or apprentice has actually resided or boarded therein, he shall be punished with fine which may extend to one hundred rupees.

Act I of 1859,  
s. 76.

**89.** If any person receives or takes into his possession or under his control any monies, documents, or effects of any seaman or apprentice, and does not return the same or pay the value thereof when required by such seaman or apprentice, subject to such deduction as may be justly due to him from such seaman or apprentice in respect of board or lodging or otherwise, or absconds therewith, he shall be punished with fine which may extend to one hundred rupees; and any Magistrate may, besides inflicting such penalty by summary order, direct the amount or value of such monies, documents or effects, subject to such deduction as aforesaid, to be forthwith paid to such seaman or apprentice.

Act I of 1859,  
s. 77.

**90.** Every person who, not being in the service of Her Majesty and not being duly authorized by law for the purpose, goes on board any ship about to arrive at the place of her destination before her actual arrival at the place of her discharge, without the permission of the master, shall for every such offence be punished with fine which may extend to two hundred rupees; and the master or person in charge of such ship may take any such person so going on board as aforesaid into custody, and deliver him up forthwith to any Police-officer, to be by him taken before a Magistrate to be dealt with according to the provisions of this Act.

Act I of 1859,  
s. 78.

**91.** If, within twenty-four hours after the arrival of any ship at any port in British India, any person then being on board such ship solicits any seaman to become a lodger at the house of any person letting lodgings for hire, or takes out of such ship any effects of any seaman, except under his personal direction and with the permission of the master, he shall for every such offence be punished with fine which may extend to fifty rupees.

## CHAPTER X.

### DISTRESSED SEAMEN.

Act VII of  
1880, s. 54.

**92.** Nothing in this chapter applies to seamen or apprentices to whom the provisions of section 211 of the Merchant Shipping Act, 1854, or of section 16 of the Merchant Shipping Act Amendment Act, 1855, apply.

In this chapter "local authority" means such person as the Local Government may from time to time, subject to the control of the Governor General in Council, appoint by name or in virtue of his office to exercise the powers conferred, and to perform the duties imposed, on the local authority under this chapter.

Every person so appointed may be suspended or dismissed by the Local Government which appointed him.

Act VII of  
1880, s. 55.

**93.** The local authority may, subject to the rules hereinafter mentioned, provide for the subsistence—

(a) of all seamen and apprentices, being Native Indian subjects of Her Majesty, who have been shipwrecked, discharged or left behind at any place in British India, whether from any British ship employed in the merchant-service, or from any of

Her Majesty's ships, or who have been engaged by any person acting either as principal or agent to serve in any ship belonging to any foreign power, or to the subject of any foreign State, and who are in distress in any such place; and

(b) of all seamen and apprentices not being Native Indian subjects who have been shipwrecked, discharged or left behind at any place in British India from any British ship registered in British India and who are in distress in any such place, until such time as such authority is able to provide them with a passage as hereinafter provided.

**94.** Subject as aforesaid, the local authority may

Distressed seamen to be sent home on board British ship wanting seamen to make up its crew.

cause such seamen or apprentices to be put on board some ship belonging to any subject of Her Majesty which is in want of men to make up its complement, and is bound—

(a) in the case of seamen or apprentices who are Native Indian subjects of Her Majesty, to their home or to a port in British India near their home;

(b) in the case of other British seamen or apprentices, to any port in the United Kingdom or the British possession to which they belong (as the case requires); and

(c) in the case of seamen or apprentices not being subjects of Her Majesty, to such place as the local authority, subject to the control of the Governor General in Council, may in each case determine.

**95.** In default of any such ship, the local authority may, subject as aforesaid,

In default of such ship, on board of any ship.

provide such seamen or apprentices with a passage in any ship (whether British or foreign) bound as aforesaid.

**96.** The local authority shall indorse on the

Name and other particulars with regard to seamen to be indorsed on agreement of British ship.

agreement of any British ship on board of which any seaman or apprentice is sent under section ninety-four or section ninety-five, the name of every person so sent on board thereof, with such particulars concerning the case as the Governor General in Council may from time to time by rule prescribe.

**97.** The master of every British ship bound as

Master of British ship compelled to convey and give subsistence to such seamen.

aforesaid shall receive and afford a passage and subsistence to all seamen and apprentices whom he is required to take on board his ship under the provisions of section ninety-four or section ninety-five, not exceeding one for every fifty tons burden, and shall, during the passage, provide every such seaman or apprentice with a proper berth or sleeping-place effectually protected against sea and weather.

**98.** If the master of any such ship fails or refuses to receive on board his

Penalty for refusing so to do.

ship, or to give a passage or subsistence to, or to provide for, any such seaman or apprentice contrary to the provisions of section ninety-seven, he shall, for each seaman and apprentice with respect to whom he so fails or refuses, be punished with fine which may extend to one thousand rupees, or, when he is tried at any place beyond the limits of British India, to the equivalent of one thousand rupees in the currency of such place.

Every offence punishable under this section may be tried in any district or Presidency-town in which the offender is found, as well as in any district or Presidency-town in which it might be tried under the law relating to criminal procedure for the time being in force.

Act VII of  
1880, s. 61.

**99.** When any master of a British ship has conveyed a seaman or apprentice in excess of the number (if any) wanted to make up the complement of his crew to any place in accordance with the requisition of a local authority under this chapter, such master shall be entitled to be paid by the Secretary of State for India in Council in respect of the subsistence and passage of such seaman or apprentice such sum per diem as the Governor General in Council from time to time appoints:

Provided that no payment shall be made under this section except on the production of the following documents (that is to say):—

(a) a certificate signed by the local authority by whose direction such seaman or apprentice was received on board, specifying the name of such seaman or apprentice, and the time when he was received on board; and

(b) a declaration in writing by such master made and verified in manner hereinafter provided, and stating—

- (1) the number of days during which such seaman or apprentice received subsistence and was provided for as aforesaid on board his ship;
- (2) the number of men and boys forming the complement of his crew;
- (3) the number of seamen and apprentices employed on board his ship during the time such seaman or apprentice was on board; and
- (4) every variation (if any) of such number.

The declaration required by this section shall, in the case of a ship conveying Native Indian subjects of Her Majesty to a port in British India, be made before a shipping master or such other officer as the Local Government may appoint. In other cases such declaration shall be made and verified in the same manner as declarations made under section 212 of the Merchant Shipping Act, 1854.

Act VII of  
1880, s. 62.

**100.** (a) If any seaman or apprentice, being a Native Indian subject of Her Majesty and belonging to any British ship, is discharged or left behind at any place in British India without full compliance on the part of the master with all the provisions in that behalf of the law for the time being in force, and becomes distressed and is relieved under the provisions of this chapter; or

(b) if any such seaman or apprentice, after having been engaged by any person (whether acting as principal or agent) to serve in any ship belonging to any foreign power, becomes distressed and is relieved as aforesaid; or

(c) if any seaman or apprentice belonging to any British ship registered in British India, and not being a Native Indian subject of Her Majesty, is discharged or left behind at any place in British India without full compliance as aforesaid, and becomes distressed and is relieved as aforesaid,

the wages (if any) due to such seaman or apprentice, and all expenses incurred for his subsistence, necessary clothing, conveyance home, and, in case he should die before reaching home, for his burial, shall be a charge upon the ship, whether British or foreign, to which he so belonged as aforesaid.

Act VII of  
1880, s. 63.

**101.** All such wages and expenses shall be recoverable with costs either from the master of such ship or from the person who is owner thereof for the time being, or in the case of an engagement for service in a foreign ship, from such master or owner, or from the person by whom such engagement was so made, in the same manner as other debts due to the Secretary of State for India in Council, or in the same manner and by the same form and process in which wages due to the seaman or apprentice would be recoverable by him.

**102.** The Local Government may from time to time, by notification in the official Gazette, authorize, either generally or specially, such persons as it thinks fit to sue for any such wages and expenses and recover the same.

Act VII of  
1880, s. 64.

And every person so authorized shall be entitled to sue and recover accordingly, and shall be deemed to be a person filling a public office within the meaning of the Indian Evidence Act, 1872, section 57, clause (7).

**103.** When any such wages and expenses are due to or in respect of a seaman or apprentice mentioned in section one hundred, clause (c), they may, instead of being recovered by a person authorized under section one hundred and two, be recovered by the Board of Trade in manner provided by the Merchant Shipping Act, 1854, section 213, and when so recovered shall be paid by the said Board to the Secretary of State for India in Council.

Act VII of  
1880, s. 65.

**104.** In all proceedings under this chapter, whether in British India or elsewhere, the production of a certificate signed by the local authority by which any seaman or apprentice named therein was relieved, or any expenses were incurred, under this chapter, to the effect that such seaman or apprentice was in distress, and that such expenses were incurred in respect of such seaman or apprentice, shall be sufficient evidence that he was relieved, conveyed home or buried (as the case may be) at the expense of the revenues of British India.

Act VII of  
1880, s. 66.

**105.** The Governor General in Council may, from time to time, make rules to determine under what circumstances and subject to what conditions seamen or apprentices may be relieved and provided with passages under this chapter, and generally to carry out the provisions of this chapter.

Act VII of  
1880, s. 67.

All such rules shall be published in the *Gazette of India*, and shall thereupon have the force of law.



## CHAPTER XI.

## DISCIPLINE.

Act I of 1859,  
79.

**106.** Any master of, or any seaman or apprentice belonging to, any ship registered at, trading with, or being at, any port or place in British India who, by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, does any act tending to the immediate loss, destruction, or serious damage of such ship, or tending immediately to endanger the life or limb of any person belonging to or on board of such ship, or who by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, refuses or omits to do any lawful act proper and requisite to be done by him for preserving such ship from immediate loss, destruction, or serious damage, or for preserving any person belonging to or on board of such ship from immediate danger to life or limb, shall for every such offence be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to two years, or with both.

Act I of 1859,  
80.

**107.** Any Court having admiralty jurisdiction in British India may, upon application by the owner of any ship being within the jurisdiction of such Court, or by the part-owner or consignee, or by the agent of the owner, or by any certificated mate, or by one-third or more of the crew, of such ship, and upon proof on oath to the satisfaction of such Court that the removal of the master of such ship is necessary, remove him accordingly; and may also, with the consent of the owner or his agent, or the consignee of the ship, or if there is no owner or agent of the owner or consignee of the ship within the jurisdiction of the Court, then, without such consent, appoint a new master in his stead, and may also make such order and may require such security in respect of costs in the matter as it thinks fit.

Act IV of  
1875, s. 23,  
para. 2.

The powers conferred by this section may, at any port in British India where there is no Court having admiralty jurisdiction, be exercised by the principal Court of ordinary criminal jurisdiction at such port.

Act I of 1859,  
83.

**108.** Whenever any seaman who has been lawfully engaged, or any apprentice to the sea-service, commits any of the following offences, he shall be punished summarily as follows; (that is to say)—

(a) For desertion he shall be punished with imprisonment for a term which may extend to twelve weeks, and shall also be liable to forfeit all or any part of the clothes and effects he leaves on board, and all or any part of the wages or emoluments which he has then earned, and also, if such desertion takes place at any port or place not in British India, at the discretion of the Court, to forfeit all or any part of the wages or emoluments he may earn in any other ship in which he may be employed until his next return to any port or place in British India, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts, to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him.

(b) For neglecting or refusing, without reasonable cause, to join his ship or to proceed to sea in his ship, or for absence without leave at any time within twenty-four hours of the ship's sailing from any port, either at the commencement or during the progress of any voyage, or for absence at any time without leave and without sufficient reason from his ship or from his duty not amounting to desertion or not treated as such by the master, he shall be punished with imprisonment for a term which may extend to ten weeks, and shall also, at the discretion of the Court, be liable to forfeit out of his wages a sum not exceeding the amount of two days' pay, and in addition for every twenty-four hours of absence either a sum not exceeding six days' pay, or any expenses which have been properly incurred in hiring a substitute.

(c) For quitting the ship without leave after her arrival at her port of delivery and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding one month's pay.

(d) For wilful disobedience to any lawful command he shall be punished with imprisonment for a term which may extend to four weeks, and shall also be liable, at the discretion of the Court, to forfeit out of his wages a sum not exceeding two days' pay.

(e) For continued wilful disobedience to lawful commands, or continued wilful neglect of duty, he shall be punished with imprisonment for a term which may extend to twelve weeks, and shall also be liable, at the discretion of the Court, to forfeit for every twenty-four hours' continuance of such disobedience or neglect, either a sum not exceeding six days' pay, or any expenses which have been properly incurred in hiring a substitute.

(f) For assaulting any master or mate he shall be punished with imprisonment for a term which may extend to twelve weeks.

(g) For combining with any other or others of the crew to disobey lawful commands, or to neglect duty, or to impede the navigation of the ship or the progress of the voyage, he shall be punished with imprisonment for a term which may extend to twelve weeks.

(h) For wilfully damaging the ship, or embezzling or wilfully damaging any of her stores or cargo, he shall be liable to forfeit out of his wages a sum equal in amount to the loss thereby sustained, and also, at the discretion of the Court, to imprisonment for a term which may extend to twelve weeks.

(i) For any act of smuggling of which he is convicted, and whereby loss or damage is occasioned to the master or owner, he shall be liable to pay to such master or owner such a sum as is sufficient to reimburse the master or owner for such loss or damage; and the whole or a proportionate part of his wages may be retained in satisfaction or on account of such liability, without prejudice to any further remedy.

Act I of 1859,  
s. 84.

**109.** Upon the commission of any of the offences enumerated in the last preceding section, an entry thereof shall be made in the official log-book, and shall be signed by the master and also by the mate or one of the crew. The offender, if still in the ship, shall, before the next subsequent arrival of the ship at any port, or if she is at the time in port before her departure therefrom, either be furnished with a copy of such entry or have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he thinks fit. A statement that a copy of the said entry has been so furnished, or that the same has been so read over as aforesaid, and the reply (if any) made by the offender shall likewise be entered and signed in manner aforesaid. In any subsequent legal proceeding, the entries hereinbefore required shall, if practicable, be produced or proved, and in default of such production or proof, the Court hearing the case may, at its discretion, refuse to receive evidence of the offence.

Act I of 1859,  
s. 85.

**110.** Every seafaring person whom the master of any ship is, under the authority of this Act or any law, compelled to take on board and convey, and every person who goes to sea in any ship without the consent of the master or owner or other person entitled to give such consent, shall, so long as he remains in such ship, be subject to the same laws and regulations for preserving discipline, and to the same penalties and punishments for offences constituting or tending to a breach of discipline, to which he would be subject if he were a member of the crew and had signed the agreement.

Act I of 1859,  
s. 86.

**111.** Whenever, either at the commencement or during the progress of any voyage, any seaman or apprentice neglects or refuses to join, or deserts from, or refuses to proceed to sea in, any ship in which he is duly engaged to serve, or is found otherwise absenting himself therefrom without leave, the master or any mate, or the owner, ship's husband, or consignee, may, with or without the assistance of Police-officers who are hereby directed to give the same if required, apprehend him without first procuring a warrant; and thereupon in any case, and shall, in case he so requires and it is practicable, convey him before some Court capable of taking cognizance of the matter, to be dealt with according to law; and may, for the purpose of conveying him before such Court, detain him in custody for a period not exceeding twenty-four hours or such shorter time as may be necessary, or may, if he does not so require, or if there is no such Court at or near the place, at once convey him on board.

If any such apprehension appears to the Court before which the case is brought to have been made on improper or on insufficient grounds, the master, mate, owner, ship's husband or consignee, who makes the same or causes the same to be made, shall be punished with fine which may extend to two hundred rupees; but such fine, if inflicted, shall be a bar to any action for false imprisonment in respect of such apprehension.

**112.** Whenever any seaman or apprentice is brought before any Court on the ground of his having neglected or refused to join or to proceed to sea in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, such Court may, if the master or the owner or his agent so requires, instead of committing the offender to prison, cause him to be conveyed on board for the purpose of proceeding on the voyage, or deliver him to the master or any mate of the ship, or the owner or his agent, to be by them so conveyed, and may in such case order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the offence, to be paid by the offender, and if necessary to be deducted from any wages which he has then earned, or which by virtue of his then existing engagement he may afterwards earn.

Deserters may be sent on board in lieu of being imprisoned.

**113.** Whenever any seaman or apprentice not shipped in British India deserts or otherwise absents himself without leave from any ship in which he is engaged to serve, the master of the ship shall, within forty-eight hours of discovering such desertion or absence, report the same to such officer as the Local Government appoints in this behalf, unless in the meantime the deserter or absentee returns.

Any master wilfully neglecting to comply with the provisions of this section shall be punished with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to one month, or with both.

**114.** If any seaman or apprentice is imprisoned on the ground of his having neglected or refused to join, or to proceed to sea in, any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, or of his having committed any other breach of discipline, and if during such imprisonment and before his engagement is at an end his services are required on board his ship, any Magistrate may, at the request of the master or of the owner or his agent, cause such seaman or apprentice to be conveyed on board his said ship for the purpose of proceeding on the voyage, or to be delivered to the master or any mate of the ship or to the owner or his agent, to be by them so conveyed notwithstanding that the termination of the period for which he was sentenced to imprisonment has not arrived.

Seamen imprisoned for desertion or breach of discipline may be sent on board before termination of sentence.

**115.** If any seaman or apprentice not shipped in British India is imprisoned for any offence for which he has been sentenced to imprisonment for a term not exceeding one month, any Magistrate may deal with him in the same way as he may deal with a seaman or apprentice imprisoned on any of the grounds mentioned in section one hundred and fourteen.

Power to deal with imprisoned seamen not shipped in British India in accordance with section 114.

**116.** If any seaman or apprentice not shipped in British India is imprisoned on a complaint made by or on behalf of the master or owner of the ship in which he is engaged to serve, on any of the grounds mentioned in section one hundred

Rules as to imprisoned seamen.

and fourteen or for any offence for which he has been sentenced to imprisonment for a term not exceeding one month, the following rules shall be observed:—

(a) No person shall, while such imprisonment lasts, without the previous sanction in writing of the Local Government or of such officer as it appoints in this behalf, engage any Native of India to serve as a seaman on board such ship:

(b) the Local Government, or such officer as it appoints in this behalf, may tender such seaman or apprentice to the master or owner of the ship in which he is engaged to serve, and if such master or owner, without assigning reasons satisfactory to the Local Government or to such officer as aforesaid, refuse to receive him on board, may require such master or owner to deposit in the local shipping office (1) the wages due to such seaman or apprentice, and his money, clothes and other effects, and (2) such sum as may in the opinion of the Local Government or of such officer as aforesaid be sufficient to defray the cost of the passage of the said seaman or apprentice to the port at which he was shipped, according to the scale of cost usual in the case of distressed seamen.

Whoever wilfully disobeys the prohibition contained in clause (a) of this section shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

Any master or owner refusing or neglecting to deposit such wages, money, clothes and other effects, or such sum as aforesaid, shall be punished with fine which may extend to five hundred rupees, and in default of payment of such fine, with imprisonment for a term which may extend to three months.

Act I of 1859,  
s. 90.

117. In all cases of desertion from any ship registered at a port or place in British India while such ship is at any place out of British India, the master shall produce the entry of such desertion in the official log-book to the person or persons required by the Merchant Shipping Act, 1854, to endorse on the agreement a certificate of such desertion; and such person or persons shall thereupon make and certify a copy of such entry, and also a copy of the said certificate of desertion. The master shall forthwith transmit such copies to the shipping master at the port where such seaman was engaged, who shall, if required, cause the same to be produced in any legal proceeding; and such copies, if purporting to be so made and certified as aforesaid, shall in any legal proceeding relating to such desertion be received as evidence of the entries therein appearing.

Act I of 1859,  
s. 90.

118. Whenever a question arises whether the wages of any seaman or apprentice are forfeited for desertion, it shall be sufficient for the party insisting on the forfeiture to show that such seaman or apprentice was duly engaged in, or that he belonged to, the ship from which he is alleged to have deserted, and that he quitted such ship before the completion of the voyage or engagement, or if such voyage was to terminate at any port or place in British India, and the ship has not returned, that he is absent from her, and that an entry of the desertion has been duly made in the official log-book. Thereupon the desertion shall, so far as relates to any forfeiture of wages or emoluments under the provisions hereinbefore con-

tained, be deemed to be proved, unless the seaman or apprentice can produce a proper certificate of discharge or can otherwise show to the satisfaction of the Court that he had sufficient reasons for leaving his ship.

119. Whenever in any proceeding relating to Act I of 1859,

Costs of procuring im- seamen's wages it is shown  
prisonment may, to the that any seaman or apprentice  
extent of thirty rupees, has in the course of the voy-  
be deducted from wages. age been convicted of any  
offence by any competent tribunal and rightfully  
punished therefor by imprisonment or otherwise, the  
Court hearing the case may direct a part of the  
wages due to such seaman, not exceeding thirty  
rupees, to be applied in reimbursing any costs properly incurred by the master in procuring such conviction and punishment.

120. Whenever any seaman contracts for wages Act I of 1859,

Amount of forfeiture by the voyage or by the run  
how to be ascertained or by the share, and not by  
when seamen contract the month or other stated  
for the voyage. period of time, the amount of  
forfeiture to be incurred under this Act shall be  
taken to be an amount bearing the same proportion  
to the whole wages or share as a month or other  
the period hereinbefore mentioned in fixing the  
amount of such forfeiture (as the case may be)  
bears to the whole time spent in the voyage; and  
if the whole time spent in the voyage does not  
exceed the period for which the pay is to be forfeited,  
the forfeiture shall extend to the whole wages or  
share.

121. All clothes, effects, wages, and emoluments Act I of 1859,

Application of forfei- which under the provisions  
tures. hereinbefore contained are  
forfeited for desertion, shall be applied in the first  
instance in or towards the reimbursement of the  
expenses occasioned by such desertion to the master  
or owner of the ship from which the desertion has  
taken place, and may, if earned subsequently to  
the desertion, be recovered by such master or by  
the owner or his agent in the same manner as the  
deserter might have recovered the same if they  
had not been forfeited; and in any legal proceeding  
relating to such wages, the Court may order the  
same to be paid accordingly; and, subject to such  
reimbursement, the same shall be paid into the  
public treasury and carried to the account of  
Government. In all other cases of forfeiture of  
wages under the provisions hereinbefore contained,  
the forfeiture shall, in the absence of any specific  
directions to the contrary, be for the benefit of the  
master or owner by whom the wages are payable.

122. Any question concerning the forfeiture of Act I of 1859,

Questions of forfeitures or deductions from the wages  
may be decided in suits of any seaman or apprentice,  
for wages. may be determined in any  
proceeding lawfully instituted with respect to such  
wages, notwithstanding that the offence in respect  
of which such question arises, though hereby made  
punishable by imprisonment as well as forfeiture,  
has not been made the subject of any criminal  
proceeding.

123. If any seaman, on or before being engaged, Act I of 1859,

Penalty for false state- wilfully and fraudulently  
ment as to last ship or makes a false statement of  
name. the name of his last ship, or  
last alleged ship, or wilfully and fraudulently  
makes a false statement of his own name, he shall be  
punished with fine which may extend to fifty rupees,



and such fine may be deducted from any wages he may earn by virtue of such engagement as aforesaid, and shall, subject to reimbursement of the loss and expenses (if any) occasioned by any previous desertion, be paid and applied in the same manner as other fines payable under this Act.

Act I of 1859, s. 98.  
M. S. Act, 1854, s. 256.

**124.** Whenever any seaman commits an act of misconduct for which his agreement imposes a fine, and which it is intended to punish by enforcing such fine, an entry thereof shall be made in the official log-book, and a copy of such entry shall be furnished or the same shall be read over to the offender, and an entry of such reading over and of the reply (if any) made by the offender shall be made, in the manner and subject to the conditions hereinbefore specified with respect to the offences against discipline specified in and punishable under this Act.

Such fine shall be deducted and paid over as follows (that is to say), if the offender is discharged at any port or place in British India, and the offence, and such entries in respect thereof as aforesaid, are proved, in the case of a foreign-going ship to the satisfaction of the shipping master before whom the offender is discharged, and in the case of a home-trade ship to the satisfaction of the shipping master at or nearest to the place at which the crew is discharged, the master or owner shall deduct such fine from the wages of the offender and pay the same over to such shipping master; and if before the final discharge of the crew in British India, any such offender as aforesaid enters into any of Her Majesty's ships or is discharged at any place not in British India, and the offence and such entries as aforesaid are proved to the satisfaction of the officer in command of the ship into which he so enters or of the consular officer, officer of customs, or other person by whose sanction he is so discharged, the fine shall thereupon be deducted as aforesaid, and an entry of such deduction shall then be made in the official log-book (if any) and signed by such officer or other person; and on the return of the ship to British India, the master or owner shall pay over such fine, in the case of foreign-going ships to the shipping master before whom the crew is discharged, and in the case of home-trade ships to the shipping master at or nearest to the place at which the crew is discharged.

If any master or owner neglects or refuses to pay over any such fine in manner aforesaid, he shall for each such offence be punished with fine which may extend to six times the amount of the fine retained by him:

Provided that no act of misconduct for which any such fine, as aforesaid has been inflicted and paid shall be otherwise punished under the provisions of this Act.

Act I of 1852, s. 97.

**125.** Every person who by any means whatever persuades or attempts to persuade any seaman or apprentice to neglect or refuse to join or proceed to sea in or to desert from his ship, or otherwise to absent himself from his duty, shall for each such offence in respect of each such seaman or apprentice be punished with fine which may extend to one hundred rupees; and every person who wilfully harbours or secretes any seaman or apprentice who has deserted from his ship or who has wilfully neglected or refused to join or has deserted from his ship, knowing or having reason to believe such seaman or apprentice to

have so done, shall for every such seaman or apprentice so harboured or secreted be punished with fine which may extend to one hundred rupees.

**126.** Any person who secretes himself and goes to sea in any ship without the consent of either the owner, consignee, or master, or of a mate, or of any person in charge of such ship, or of any other person entitled to give such consent, shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to four weeks.

**127.** If during the progress of a voyage the master of any ship registered at any port or place in British India, is superseded or for any other reason quits the ship and is succeeded in the command by some other person, he shall deliver to his successor the various documents relating to the navigation of the ship and to the crew thereof which are in his custody; and shall in default be punished with fine which may extend to one thousand rupees; and such successor shall, immediately on assuming the command of the ship, enter in the official log a list of the documents so delivered to him.

## CHAPTER XII. OFFICIAL LOGS.

**128.** An official log-book of every ship registered at any port or place in British India, except home-trade ships of a burden not exceeding three hundred tons, shall be kept in a form sanctioned by the Local Government; and such official log may, at the discretion of the master or owner, either be kept distinct from the ordinary ship's log or united therewith, so that in all cases all the blanks in the official log be duly filled up.

**129.** Every entry in every official log shall be made as soon as possible after the occurrence to which it relates, and if not made on the same day as the occurrence to which it relates shall be made and dated so as to show the date of the occurrence, and of the entry respecting it; and in no case shall any entry therein in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge be made more than twenty-four hours after such arrival.

**130.** Every master of a ship for which an official log-book is hereby required shall make or cause to be made therein entries of the following matters; (that is to say)—

- (a) Every legal conviction of any member of his crew and the punishment inflicted:
- (b) Every offence committed by any member of his crew for which it is intended to prosecute, or to enforce a forfeiture, or to exact a fine, together with such statement concerning the reading over such entry and concerning the reply (if any) made to the charge, as hereinbefore required:
- (c) Every offence for which punishment is inflicted on board and the punishment inflicted:

(d) A statement of the conduct, character, and qualifications of each of his crew, or a statement that he declines to give an opinion on such particulars:

(e) Every case of illness or injury happening to any member of the crew with the nature thereof, and the medical treatment adopted (if any):

Deaths. (f) Every case of death happening on board, and of the cause thereof:

Births. (g) Every birth happening on board with the sex of the infant, and the names of the parents:

Marriages. (h) Every marriage taking place on board with the names and ages of the parties:

(i) The name of every seaman or apprentice who ceases to be a member of the crew otherwise than by death,

Quitting ship.

with the place time, manner, and cause thereof:

(j) The amount of wages due to any seaman who enters Her Majesty's service during the voyage:

(k) The wages due to any seaman or apprentice who dies during the voyage, and the gross amount of all deductions to be made therefrom:

(l) The sale of the effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold and of the sum received for it:

(m) Every collision with any other ship and the circumstances under which the same occurred.

Collisions.

Act I of 1859  
s. 106.

131. The entries hereby required to be made in official log-books shall be signed as follows; (that is to say) every such entry shall be signed by the master and by the mate or some other of the crew, and every entry of illness, injury, death, or birth shall be also signed by the surgeon or medical practitioner on board (if any); and every entry of wages due to, or of the sale of the effects of, any seaman or apprentice who dies shall be signed by the master and by the mate and some other member of the crew, and every entry of wages due to any seaman who enters Her Majesty's service, shall be signed by the master and by the seaman or by the officer authorized to receive the seaman into such service.

Act I of 1859,  
s. 107.

132. The following offences in respect of official log-books shall be punishable as hereinafter mentioned; (that is to say)—

(a) If in any case an official log-book is not kept in the manner hereby required, or if any entry hereby directed to be made in any such log-book is not made at the time and in the manner hereby directed, the master shall for each such offence incur the specific penalty herein mentioned in respect thereof, or where there is no such specific penalty, he shall be punished with fine which may extend to fifty rupees.

(b) Every person who makes or procures to be made or assists in making any entry in an official log-book, in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge in British India, more than twenty-four hours after such arrival, shall for each

such offence be punished with fine which may extend to three hundred rupees.

(c) Every person who wilfully destroys or mutilates or renders illegible any entry in any official log-book, or who wilfully makes or procures to be made or assists in making any false or fraudulent entry or omission in any such log-book, shall for each such offence be punished with imprisonment for a term which may extend to one year.

133. All entries made in any official log-book as Act I of 1859, hereinbefore directed shall be s. 103.

Entries in official logs to be received in evidence. received in evidence in any proceeding in any Court of Justice, subject to all just exceptions.

134. The master of every foreign-going ship shall, within forty-eight hours after the ship's arrival at her final port of destination in British India, or upon the discharge of the crew, whichever first happens, deliver to the shipping master before whom the crew is discharged, the official log-book of the voyage; and the master or owner of every home-trade ship of a burden exceeding three hundred tons shall, within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year, transmit or deliver to some shipping master in British India the official log-book for the preceding half year; and every master or owner who refuses or neglects to deliver his official log-book, as hereby required, shall be punished with fine which may extend to two hundred rupees.

Official logs to be delivered to shipping master on ship's arrival at port of destination in British India.

135. If any ship ceases, by reason of transfer of ownership or change of employment, to fall within the operation of section one hundred and twenty-eight, the master or owner thereof shall, if such ship is then in any port in British India, within one month, and if she is elsewhere, within six months, deliver or transmit to the shipping master at the port to which the ship belonged, the official log-book duly made out to the time at which she ceased to be within such operation, and in default shall for each offence be punished with fine which may extend to one hundred rupees; and if any ship is lost or abandoned, the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to the shipping master at the port to which the ship belonged, the official log-book (if any) duly made out to the time of such loss or abandonment, and in default shall for each offence be punished with fine which may extend to one hundred rupees.

Official logs to be transmitted to shipping master in case of transfer of ship and in case of loss.

## CHAPTER XIII.

### INVESTIGATIONS INTO CASUALTIES.

136. Nothing in this chapter affects the powers conferred by section 240 of the Merchant Shipping Act, 1854, on Courts having Admiralty jurisdiction in India. Cf. Act IV of 1875, s. 23; Act XV of 1863, s. 16; Act XXVIII of 1861, s. 3.

137. Whenever any Magistrate, or any officer appointed by the Local Government in this behalf, receives credible information that— See Act IV of 1875, s. 3, and section 81 of the High Courts Ordinance, which became Act VII of 1880. Cf. M.S. Act, 1854, s. 432.

(a) any ship has been lost, abandoned, stranded or materially damaged on or near the coasts of British India; or

(b) by reason of any casualty happening to or on board of any ship on or near such coasts, loss of life has ensued; or

(c) any ship has caused loss or material damage to any other ship on or near such coasts; or

(d) any such loss, abandonment, stranding, damage or casualty has happened elsewhere to any British ship, and any competent witnesses thereof have arrived or are to be found at any place in British India; or

(e) any British ship is supposed to have been lost, and any evidence can be obtained in British India as to the circumstances under which she proceeded to sea or was last heard of;

he shall forthwith report in writing such information to the Local Government.

In the cases mentioned in clauses (a), (b) and (c), the master, pilot, harbour-master or other person in charge of the ship or (where two ships are concerned) in charge of each ship, at the time of such loss, abandonment, stranding, damage or casualty, and

in cases under clause (d), where the master of the ship concerned, or (except in case of a loss) where the ship concerned, proceeds to any place in British India from the place where such loss, abandonment, stranding, damage or casualty has occurred, the master of such ship,

shall, on arriving in British India, give immediate notice of such loss, abandonment, stranding, damage or casualty to the nearest Magistrate, or, when he arrives at a port in British India, to the officer appointed at such port as aforesaid.

Any person bound to give notice under this section and wilfully failing to give the same shall be punished with fine which may extend to five hundred rupees, and, in default of payment, to simple imprisonment for a term which may extend to three months.

See Act IV of 1875, s. 4.

**138.** If in any such case a formal investigation into the facts mentioned in section one hundred and thirty-seven, clause (a), (b), (c), (d) or (e), appears to the Local Government to be requisite or expedient, the Local Government (whether such notice be given or not) may appoint a special Court, consisting of not less than two nor more than four persons, and direct such Court to make such investigation, and may fix the place for making the same.

One of such persons shall be a Magistrate acting in or near the place where the investigation is made: another shall be some person conversant with maritime affairs: the other or others (if any) shall be conversant with either maritime or mercantile affairs.

See Act IV of 1875, s. 5.

**139.** Every Court having admiralty jurisdiction in British India, and the principal Court of ordinary criminal jurisdiction at every port of British India where there is no Court having admiralty jurisdiction, is hereby authorized, when so directed by the Local Government, to make the investigations referred to in section one hundred and thirty-eight.

Act XIII of 1875, s. 3.

**140.** Any Court making an investigation under section one hundred and thirty-eight or sections one hundred and thirty-nine may inquire into any charge of incompetency or misconduct arising in the course of such investigation, against any master, mate or engineer as well as into

any charge of a wrongful act or default on his part causing any such loss, abandonment, stranding, damage or casualty as aforesaid.

In every case in which any such charge, whether of incompetency or misconduct, or of a wrongful act or default, as aforesaid, arises against any master, mate or engineer in the course of an investigation, the Court shall before the commencement of such inquiry cause to be furnished to him a copy of the report or statement of the case upon which the investigation has been directed.

**141.** If the Local Government has reason to believe that there are grounds for charging any master, mate or engineer holding a certificate granted by the

Board of Trade or a Local Government with incompetency or misconduct, otherwise than in the course of an investigation under section one hundred and thirty-eight or section one hundred and thirty-nine, it may transmit a statement of the case to any Court mentioned in section one hundred and thirty-nine, at or nearest to the place at which it may be convenient for the parties and witnesses to attend, and may direct such Court to make an investigation into such charge.

Before commencing such investigation, the Court shall cause the master, mate or engineer so charged to be furnished with a copy of the statement so transmitted by the Local Government.

**142.** For the purpose of an investigation under this chapter into any charge against a master, mate or engineer, the Court may summon him to appear, and shall give him full opportunity of making a defence, either in person or otherwise.

**143.** For the purpose of any investigation under this chapter, the Court making the investigation, so far as relates to compelling the attendance and examination of witnesses and the production of documents and the regulation of the proceedings, shall have—

(a) if such Court is a special Court, the same powers as are exercisable by the principal Court of ordinary criminal jurisdiction for the place at which the investigation is made;

(b) if such Court is a Court having admiralty jurisdiction or a principal Court of ordinary criminal jurisdiction, the same powers as are exercisable by such Court in the exercise of such admiralty or criminal jurisdiction (as the case may be).

When any investigation involves or appears likely to involve any question as to the cancelling or suspension of the certificate of a master, mate or engineer, the Court making such investigation shall constitute as its assessors for the purpose of the investigation two persons having experience in the merchant-service; and in every other investigation the Court making it may, if it think fit, constitute as its assessor for the purposes of the investigation any person conversant with maritime affairs and willing to act as such assessor.

Such persons shall attend during the investigation and deliver their opinions in writing, to be recorded on the proceedings. But the exercise of all powers conferred on the Court by this Act or any other enactment for the time being in force shall rest with the Court.



Act IV of  
1875, s. 15.

#### 144. If any Court making an investigation under

Power to arrest witnesses and cause entry and detention of vessels.

this chapter thinks it necessary for obtaining evidence that any person should be arrested, it may issue a warrant for his arrest, and may, for the purpose of effecting such arrest, authorize any officer (subject, nevertheless, to any general or special instructions from the Local Government) to enter any vessel.

Any officer so authorized may, for the purpose of enforcing such entry, call to his aid any officers of police or customs, or any other persons, and may seize and detain the vessel for such time as is reasonably necessary to effect the arrest; and every such officer or other person shall be deemed to be a public servant within the meaning of the Indian Penal Code, section 186.

No person shall be detained by virtue of this section for more than forty-eight hours.

Act IV of  
1875, s. 16.

#### 145. Whenever, in the course of any such investigation, it appears that any

Power to commit for trial.

person has committed within the jurisdiction of any Court in British India an offence punishable under any law in force in British India, the Court making the investigation may (subject to such rules consistent with this Act as the High Court may from time to time prescribe) cause him to be arrested, or commit him or hold him to bail to take his trial before the proper Court; and may bind over

Power to bind over persons to give evidence.

any person to give evidence at such trial, and may, for the purposes of this section, exercise all the powers of a Magistrate of the first class or of a Presidency Magistrate.

And whenever in the course of such trial the testimony of any witness is required in relation to the subject-matter, any deposition previously made by him in relation to the same subject-matter before any Court making an investigation under this chapter shall, if authenticated by the signature of the Magistrate or presiding Judge, be admissible in evidence on proof—

Depositions.

(a) that the witness cannot be found within the jurisdiction of the Court before which the trial is held; and

(b) that it was made in the presence of the person accused and that he had an opportunity of cross-examining such witness.

A certificate by the Magistrate or presiding Judge that the deposition was made in the presence of the accused and that he had such opportunity shall, unless the contrary be proved, be sufficient evidence that it was so made.

For the purposes of this section the Recorder of Rangoon shall, within the local limits of his ordinary civil jurisdiction, be deemed to be the High Court.

Act IV of  
1875, s. 11  
and 12.

#### 146. The Court shall, in the case of all investigations under this chapter,

Report by Court to Local Government.

transmit to the Local Government a full report of the conclusions at which it has arrived, together with the evidence.

In cases in which, under the Merchant Shipping Acts, 1854 to 1880, the Court is required to send a report to the Board of Trade, such report shall be sent through the Local Government, and the transmission of such report to the Local Government shall be a sufficient compliance with this section.

### CHAPTER XIV.

#### SUSPENSION, &c., OF CERTIFICATES.

#### 147. Nothing herein contained shall affect the

Saving of power to cancel and suspend certificates under English Act.

powers conferred by the Merchant Shipping Acts, 1854 to 1880, on the Courts conducting investigations or inquiries under sections one hundred and thirty-eight, one hundred and thirty-nine, one hundred and forty and one hundred and forty-one of this Act, to cancel or suspend certificates granted under any of the said Merchant Shipping Acts, or certificates to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869.

When any such Court cancels or suspends any such certificate, it may, in its report to the Local Government, advise such Govern-

ment to grant, without examination, to the holder of such certificate, when such certificate is a certificate as master, a certificate as mate; and, when such certificate is a certificate as mate or engineer, a certificate as mate or engineer, as the case may be of a grade lower than that which he held at the time of such cancellation or suspension; and such Local Government, if it thinks fit, and if it is empowered by any enactment of a British Indian legislature for the time being in force to grant such certificate, may grant it under such enactment, but without examination. A certificate so granted shall have the same effect as if it had been granted after examination, but shall not have the effect of a certificate granted under the Merchant Shipping (Colonial) Act, 1869, or of any order in Council under the said Act.

The power to grant a certificate conferred by this section may be exercised by the Local Government even though the Court has not advised it so to do.

148. Any certificate (whether of competency or service) which has been granted by any Local Government to any master, mate or engineer, but has not been granted under the provisions of the Merchant Shipping (Colonial) Act, 1869, or of any order in Council under the said Act, may be suspended or cancelled, by that or any other Local Government, in the following cases, that is to say:—

(a) if, upon any investigation made under this Act, the Court reports that the loss, stranding or abandonment of, or damage to, any ship, or loss of life, has been caused by his wrongful act or default, or that he is incompetent, or has been guilty of any gross act of drunkenness, tyranny or other misconduct;

(b) if, upon any investigation made under the provisions of the Merchant Shipping Acts, 1854 to 1880, or upon any investigation made by any Court or tribunal for the time being authorized by the legislative authority in any British possession to make enquiry into charges of incompetency or misconduct on the part of masters mates or engineers of ships, or as to shipwrecks or other casualties affecting ships, the Court or tribunal reports that such master, mate or engineer is incompetent, or has been guilty of any gross act

of misconduct, drunkenness or tyranny, or that the loss, stranding or abandonment of, or damage to, any ship, or loss of life, has been caused by his wrongful act or default;

Act IV of 1875, s. 18, cl. (d).

(c) if he is proved to have been convicted of any offence which, if committed in British India, would be non-bailable, or, if committed in England, would be a felony; and

(d) if (in the case of a master) he has been superseded by the order of any Admiralty Court, or of any Naval Court constituted as provided by the Merchant Shipping Act, 1854, or by any other law for the time being in force:

Provided that, in any case in which an investigation has been made into a charge against any master, mate or engineer, no certificate shall be suspended or cancelled under clause (a) unless the Local Government is satisfied that the holder of the certificate has been furnished before the commencement of the investigation with the copy of the report or statement required by section one hundred and forty, or section one hundred and forty-one, as the case may be.

See Act IV of 1875, s. 19.

149. Every master, mate or engineer whose certificate is cancelled or suspended under section one hundred and forty-eight shall deliver it to the shipping-master, or to such other person as the Local Government which cancelled or suspended the certificate directs, and in default of such delivery shall, for each offence, be punished with fine which may extend to five hundred rupees.

See Act IV of 1875, s. 20.

150. If the Local Government which cancels or suspends, under section one hundred and forty-eight a certificate of a master, mate, or engineer, is not the Local Government that granted the same, the Local Government so cancelling or suspending the certificate shall report the proceedings, and the fact of cancellation or suspension, to the Local Government which granted such certificate.

See Act IV of 1875, s. 21.

151. Every Local Government cancelling or suspending, under section one hundred and forty-eight, the certificate of a master, mate or engineer shall, as soon as may be practicable, report to the Board of Trade the fact of such cancellation or suspension.

See Act IV of 1875, s. 22.

152. Any Local Government may, at any time, revoke any order of cancellation or suspension which it may have made under section one hundred and forty-eight or grant, without examination, to any person, whose certificate it has so cancelled, a new certificate of the same or of any lower grade.

A certificate so granted shall have the same effect as if it had been granted after examination, but shall not have the effect of a certificate granted under the Merchant Shipping (Colonial) Act, 1869, or of any order in Council under the said Act.

A certificate of competency for a home-trade ship under this Act shall be deemed, for the purposes of this section, to be of a lower grade than a certificate of competency for a foreign-going ship under the same Act.

## CHAPTER XV.

### HEALTH-OFFICERS.

153. The Local Government may, from time to time, appoint, at any port subject to the Indian Ports Act, 1875, an officer to be called the Health-officer, and may suspend or remove from office any officer so appointed.

Such officer shall, subject to the control of the Local Government, have the following powers within the limits of the port for which he is appointed, that is to say:—

- with respect to any ship, the powers conferred by section eighty-four on a shipping master;
- power to enter on board any ship and medically examine all or any of the seamen or apprentices on board such ship;
- power to require and enforce the production of the log-book and any other books, papers or documents which he thinks necessary for the purpose of enquiring into the health and medical condition of the persons on board such ship;
- power to call before him and examine for such purpose all or any of such persons, and to require answers to any enquiries he thinks fit to make;
- power to require any person so examined by him to make and subscribe a declaration of the truth of the statements made by such person.

## CHAPTER XVI.

### MISCELLANEOUS.

154. Whenever in the course of any legal proceedings instituted at any port or place in British India before any Judge or Magistrate or before any person authorized by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject-matter of such proceeding, any deposition that such witness may have previously made in relation to the same subject-matter before any Justice or Magistrate in Her Majesty's dominions (including all parts of British India other than those subject to the same Local Government as the port or place where such proceedings are instituted), or any British consular officer elsewhere, shall, if authenticated by the signature of the Justice, Magistrate or consular officer, be admissible in evidence on due proof that such witness cannot be found within the jurisdiction of the Court in which such proceedings are instituted.

Provided that, if the proceeding is criminal, such deposition shall not be admissible unless it was made in the presence of the person accused, and the fact that it was so made is certified by the Justice, Magistrate or consular officer.

It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and in any criminal proceeding, such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.



Act I of 1859,  
s. 112.

155. In all cases where any Court or Magistrate has power to make an order directing payment to be made of any seaman's wages, penalties or other sums of money, then if the party so directed to pay the same is the master or owner of a ship and the same is not paid at the time and in manner prescribed in the order, the Court or Magistrate who made the order may, in addition to any other powers which such Court or Magistrate may have for the purpose of compelling payment, direct the amount remaining unpaid to be levied by distress and sale of the said ship, her tackle, furniture and apparel.

See Act IV of  
1875, s. 30.

156. In sections 2, 15, 17 and 23 of the said Act Amendment of Act X No. X of 1841, for the words of 1841, sections 2, 15, "on information in any Court of Her Majesty or the East India Company by the Advocates General of the respective Presidencies," "by information as aforesaid," "on information as aforesaid," "upon information as aforesaid," in each of the places where they occur, the following words shall be substituted, namely:—"on conviction before a Presidency Magistrate or a Magistrate of the first class."

Act XIII of  
1876, s. 2.

157. A certificate signed by a Secretary to the Local Government, or by such other officer as it appoints in this behalf, to the effect that any seaman named therein is distressed, shall, in all proceedings under sections 211, 212 and 213 of the Merchant Shipping Act, 1854, be conclusive evidence that such seaman is distressed within the meaning of the same sections; and Penalty for refusing any master of a British ship to accept distressed seamen. refusing to accept such seaman as a distressed seaman under the provisions of the said sections shall, for each seaman with respect to whom he so refuses, be punished with fine which may extend to one thousand rupees.

## THE FIRST SCHEDULE.

NUMBER AND YEAR.	TITLE.	EXTENT OF REPEAL.
I of 1859 ...	An Act for the amendment of the law relating to Merchant Seamen.	So much as has not been repealed.
IV of 1875 ...	An Act for the further amendment of Act No. I of 1859, and for other purposes.	So much as has not been repealed.
XIII of 1876 ...	An Act to amend the law relating to Merchant Seamen.	The whole.

THE FIRST SCHEDULE—*contd.*

NUMBER AND YEAR.	TITLE.	EXTENT OF REPEAL.
XIII of 1878 ...	An Act to provide for the recovery in British India of wages due to, and expenses incurred in respect of, certain seamen and apprentices, and to amend the Indian Merchant Shipping Act, 1875, and the Indian Ports Act, 1875.	So much as has not been repealed.
VII of 1880 ...	An Act to amend the law relating to Merchant Shipping, and for other purposes.	Chapter III and section 84 so far as it relates to that chapter.

## THE SECOND SCHEDULE.

TABLE A—(see section 8).

Fees to be charged for matters transacted at shipping offices:—

## (1) Engagement or discharge of crews—

	Rs.	A.	P.
In ships under 100 tons	...	3	0 0
From 100 to 200 "	...	7	0 0
200 to 300 "	...	10	0 0
300 to 400 "	...	12	8 0
400 to 500 "	...	15	0 0
500 to 600 "	...	17	8 0
600 to 700 "	...	20	0 0
700 to 800 "	...	22	8 0
800 to 900 "	...	25	0 0
900 to 1,000 "	...	27	8 0
above 1,000 "	...	30	0 0

and so on for ships of larger tonnage, adding for every one hundred tons above one thousand, two rupees and eight annas.

## (2) Engagement or discharge of seamen separately, one rupee for each seaman.

TABLE B—(see section 9).

Sums to be deducted from wages by way of partial repayment of fees in Table A—

## (1) In respect of engagements and discharges of crews, upon each engagement and each discharge.

	Rs.	A.	P.
From wages of any mate, purser, engineer, surgeon, carpenter or steward	...	0	12 0
From wages of all others except apprentices	...	0	8 0

## (2) In respect of engagements and discharges of seamen, separately, upon each engagement and each discharge

R. J. CROSTHWAITE,  
Offg. Secy. to the Govt. of India.



# The Gazette of India.

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CALCUTTA, SATURDAY, FEBRUARY 11, 1882.

Separate paging is given to this Part in order that it may be filed as a separate compilation

## PART V.

Bills introduced into the Council of the Governor General for making  
Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

### LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 26th January, 1882:—

WE, the undersigned Members of the Select Committee to which the

Office memorandum from Department of Finance and Commerce, No. 744, dated 23rd February, 1881, and enclosures [Papers No. 1].

From Her Majesty's Secretary of State for India, No. 64 S. & C., dated 31st March, 1881, and enclosures [Papers No. 2].

Secretary to Government, Bombay, No. 943, dated 23rd December, 1879, and enclosures [Papers No. 3].

To Secretary to Government, Bombay, No. 412, dated 5th April, 1881 [Papers No. 3].

From Secretary to Government, Bombay, No. 310, dated 1st June, 1881, and enclosures [Papers No. 3].

Secretary to Government, Bengal, No. 429 T., dated 9th June, 1881, and enclosures [Papers No. 4].

Officiating Chief Secretary to Government, Madras, No. 1117, dated 6th June, 1881, and enclosures [Papers No. 5].

Secretary to Government, Bombay, No. 343, dated 15th June, 1881 [Paper No. 6].

Office memorandum from Department of Finance and Commerce, No. 1599, dated 5th July, 1881, and enclosures [Papers No. 7].

From Secretary to Government, Bombay, to Secretary to Government of India, Department of Finance and Commerce, No. 122, dated 5th March, 1881.

Officiating Secretary to Government of India, Department of Finance and Commerce, to Secretary to Government, Bombay, No. 1663, dated 15th July, 1881, and enclosures.

To Her Majesty's Secretary of State, No. 51 S. & C., dated 15th July, 1881.

From Chief Secretary to Government, Madras, No. 1272, dated 29th June, 1881, and enclosure [Papers No. 8].

Secretary to Government, Bengal, to Secretary to Government of India, Department of Finance and Commerce, No. 144, dated 25th January, 1881, and enclosures [Papers No. 9].

Secretary to Government of India, Department of Finance and Commerce, to Secretary to Government, Bengal, No. 798, dated 28th February, 1881 [Papers No. 9].

Office memorandum from Department of Finance and Commerce, No. 1562, dated 9th July, 1881, and enclosures [Papers No. 9].

From Secretary to Government, Bombay, to Secretary to Government of India, Marine Department, No. 331, dated 8th June, 1881, and enclosures.

Secretary to Government of India, Department of Finance and Commerce, to Secretary to Government, Bombay, No. 2559, dated 27th August, 1881.

Her Majesty's Secretary of State for India, No. 124 S. & C., dated 11th August, 1881, and enclosures.

Office memorandum to Department of Finance and Commerce, No. 798, dated 14th September, 1881.

Resolution of the Department of Finance and Commerce, No. 2069, dated 12th September, 1881.

From Officiating Secretary to Chief Commissioner, British Burma, No. 6198-4 P., dated 5th September, 1881, and enclosures [Papers No. 10].

Her Majesty's Secretary of State for India, No. 129 S. & C., dated 18th August, 1881 [Papers No. 11].

Her Majesty's Secretary of State for India, No. 114, dated 23rd July, 1881, and enclosures [Papers No. 12].

Her Majesty's Secretary of State for India, No. 39, dated 6th October, 1881.

Ditto ditto ditto No. 168 S. & C., dated 20th October, 1881, and enclosures.

Secretary to Government, Bengal, to Secretary to Government of India, Department of Finance and Commerce, No. 909 T., dated 2nd August, 1881.

Secretary to Government of India, Department of Finance and Commerce, to Secretary to Government, Bengal, No. 1794, dated 9th December, 1881.

as introduced (now section 140), given to the Court making an investigation power to inquire into charges against Masters, Mates or Engineers whether they are certificated or not. We

Bill for the further amendment of the law relating to Merchant Shipping was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

2. To meet a doubt that has arisen we have provided, in section 5 of the Bill as introduced (now section 4), that nothing in the Bill shall apply to any ship belonging to or in the service of the Government of India.

3. We have made the provisions of clauses (a) and (c) of section 6 of the Bill as introduced (now section 137) apply only to cases where material damage has been caused. We have also, at the suggestion of the Board of Trade, limited the application of clauses (d) and (e) of the same section to British ships.

4. At the suggestion of the same Board we have, in section 9 of the Bill